

1 AN ACT concerning certain financial institutions.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Office of Banks and Real Estate Act is
5 amended by changing Sections 5 and 6 as follows:

6 (20 ILCS 3205/5) (from Ch. 17, par. 455)

7 Sec. 5. Powers. In addition to all the other powers and
8 duties provided by law, the Commissioner shall have the
9 following powers:

10 (a) To exercise the rights, powers and duties formerly
11 vested by law in the Director of Financial Institutions under
12 the Illinois Banking Act.

13 (b) To exercise the rights, powers and duties formerly
14 vested by law in the Department of Financial Institutions
15 under "An act to provide for and regulate the administration
16 of trusts by trust companies", approved June 15, 1887, as
17 amended.

18 (c) To exercise the rights, powers and duties formerly
19 vested by law in the Director of Financial Institutions under
20 "An act authorizing foreign corporations, including banks and
21 national banking associations domiciled in other states, to
22 act in a fiduciary capacity in this state upon certain
23 conditions herein set forth", approved July 13, 1953, as
24 amended.

25 (d) Whenever the Commissioner is authorized or required
26 by law to consider or to make findings regarding the
27 character of incorporators, directors, management personnel,
28 or other relevant individuals under the Illinois Banking Act,
29 the Corporate Fiduciary Act, the Pawnbroker Regulation Act,
30 or at other times as the Commissioner deems necessary for the
31 purpose of carrying out the Commissioner's statutory powers

1 and responsibilities, the Commissioner shall consider
2 criminal history record information, including nonconviction
3 information, pursuant to the Criminal Identification Act.
4 The Commissioner shall, in the form and manner required by
5 the Department of State Police and the Federal Bureau of
6 Investigation, cause to be conducted a criminal history
7 record investigation to obtain information currently
8 contained in the files of the Department of State Police or
9 the Federal Bureau of Investigation, provided that the
10 Commissioner need not cause additional criminal history
11 record investigations to be conducted on individuals for whom
12 the Commissioner, a federal bank regulatory agency, or any
13 other government agency has caused such investigations to
14 have been conducted previously unless such additional
15 investigations are otherwise required by law or unless the
16 Commissioner deems such additional investigations to be
17 necessary for the purposes of carrying out the Commissioner's
18 statutory powers and responsibilities. The Department of
19 State Police shall provide, on the Commissioner's request,
20 information concerning criminal charges and their disposition
21 currently on file with respect to a relevant individual.
22 Information obtained as a result of an investigation under
23 this Section shall be used in determining eligibility to be
24 an incorporator, director, management personnel, or other
25 relevant individual in relation to a financial institution or
26 other entity supervised by the Commissioner. Upon request
27 and payment of fees in conformance with the requirements of
28 Section 2605-400 of the Department of State Police Law (20
29 ILCS 2605/2605-400), the Department of State Police is
30 authorized to furnish, pursuant to positive identification,
31 such information contained in State files as is necessary to
32 fulfill the request.

33 (e) When issuing charters, permits, licenses, or other
34 authorizations, the Commissioner may impose such terms and

1 conditions on the issuance as he deems necessary or
 2 appropriate. Failure to abide by those terms and conditions
 3 may result in the revocation of the issuance, the imposition
 4 of corrective orders, or the imposition of civil money
 5 penalties.

6 (f) If the Commissioner has reasonable cause to believe
 7 that any entity that has not submitted an application for
 8 authorization or licensure is conducting any activity that
 9 would otherwise require authorization or licensure by the
 10 Commissioner, the Commissioner shall have the power to
 11 subpoena witnesses, to compel their attendance, and to
 12 require the production of any relevant books, papers,
 13 accounts, and documents in order to determine whether the
 14 entity is subject to authorization or licensure by the
 15 Commissioner or the Office of Banks and Real Estate.

16 (g) The Commissioner may, through the Attorney General,
 17 request the circuit court of any county to issue an
 18 injunction to restrain any person from violating the
 19 provisions of any Act administered by the Commissioner.

20 (h) Whenever the Commissioner is authorized to take any
 21 action or required by law to consider or make findings, the
 22 Commissioner may delegate or appoint, in writing, an officer
 23 or employee of the Office of Banks and Real Estate to take
 24 that action or make that finding.

25 (Source: P.A. 90-301, eff. 8-1-97; 90-602, eff. 7-1-98;
 26 91-239, eff. 1-1-00.)

27 (20 ILCS 3205/6) (from Ch. 17, par. 456)

28 Sec. 6. Duties. The Commissioner shall direct and
 29 supervise all the administrative and technical activities of
 30 the Office and shall:

31 (a) Apply and carry out this Act and the law and all
 32 rules adopted in pursuance thereof.

33 (b) Appoint, subject to the provisions of the Personnel

1 Code, such employees, experts, and special assistants as may
2 be necessary to carry out effectively the provisions of this
3 Act and, if the rate of compensation is not otherwise fixed
4 by law, fix their compensation; but neither the Commissioner
5 nor any deputy commissioner shall be subject to the Personnel
6 Code.

7 (c) Serve as Chairman of the State Banking Board of
8 Illinois.

9 (d) Serve as Chairman of the Board of Trustees of the
10 Illinois Bank Examiners' Education Foundation.

11 (e) Issue guidelines in the form of rules or regulations
12 which will prohibit discrimination by any State chartered
13 bank against any individual, corporation, partnership,
14 association or other entity because it appears in a so-called
15 blacklist issued by any domestic or foreign corporate or
16 governmental entity.

17 (f) Make an annual report to the Governor regarding the
18 work of the Office as the Commissioner may consider desirable
19 or as the Governor may request.

20 (g) Perform such other acts as may be requested by the
21 State Banking Board of Illinois pursuant to its lawful powers
22 and perform any other lawful act that the Commissioner
23 considers to be necessary or desirable to carry out the
24 purposes and provisions of this Act.

25 (h) Adopt, in accordance with the Illinois
26 Administrative Procedure Act, reasonable rules that the
27 Commissioner deems necessary for the proper administration
28 and enforcement of any Act the administration of which is
29 vested in the Commissioner or the Office of Banks and Real
30 Estate.

31 (Source: P.A. 89-508, eff. 7-3-96.)

32 Section 10. The Illinois Banking Act is amended by
33 changing Sections 2, 5, 5b, 7, 8, 10, 12, 13, 13.5, 14, 15,

1 16.1, 17, 18, 22, 25, 30.5, 31, 33, 37, 47, 48, 48.1, 48.5,
2 49, 51, and 53, and adding Section 48.7 as follows:

3 (205 ILCS 5/2) (from Ch. 17, par. 302)

4 Sec. 2. General definitions. In this Act, unless the
5 context otherwise requires, the following words and phrases
6 shall have the following meanings:

7 "Accommodation party" shall have the meaning ascribed to
8 that term in Section 3-419 of the Uniform Commercial Code.

9 "Action" in the sense of a judicial proceeding includes
10 recoupments, counterclaims, set-off, and any other proceeding
11 in which rights are determined.

12 "Affiliate facility" of a bank means a main banking
13 premises or branch of another commonly owned bank. The main
14 banking premises or any branch of a bank may be an "affiliate
15 facility" with respect to one or more other commonly owned
16 banks.

17 "Appropriate federal banking agency" means the Federal
18 Deposit Insurance Corporation, the Federal Reserve Bank of
19 Chicago, or the Federal Reserve Bank of St. Louis, as
20 determined by federal law.

21 "Bank" means any person doing a banking business whether
22 subject to the laws of this or any other jurisdiction.

23 A "banking house", "branch", "branch bank" or "branch
24 office" shall mean any place of business of a bank at which
25 deposits are received, checks paid, or loans made, but shall
26 not include any place at which only records thereof are made,
27 posted, or kept. A place of business at which deposits are
28 received, checks paid, or loans made shall not be deemed to
29 be a branch, branch bank, or branch office if the place of
30 business is adjacent to and connected with the main banking
31 premises, or if it is separated from the main banking
32 premises by not more than an alley; provided always that (i)
33 if the place of business is separated by an alley from the

1 main banking premises there is a connection between the two
2 by public or private way or by subterranean or overhead
3 passage, and (ii) if the place of business is in a building
4 not wholly occupied by the bank, the place of business shall
5 not be within any office or room in which any other business
6 or service of any kind or nature other than the business of
7 the bank is conducted or carried on. A place of business at
8 which deposits are received, checks paid, or loans made shall
9 not be deemed to be a branch, branch bank, or branch office
10 (i) of any bank if the place is a terminal established and
11 maintained in accordance with paragraph (17) of Section 5 of
12 this Act, or (ii) of a commonly owned bank by virtue of
13 transactions conducted at that place on behalf of the other
14 commonly owned bank under paragraph (23) of Section 5 of this
15 Act if the place is an affiliate facility with respect to the
16 other bank.

17 "Branch of an out-of-state bank" means a branch
18 established or maintained in Illinois by an out-of-state bank
19 as a result of a merger between an Illinois bank and the
20 out-of-state bank that occurs on or after May 31, 1997, or
21 any branch established by the out-of-state bank following the
22 merger.

23 "Call report fee" means the fee to be paid to the
24 Commissioner by each State bank pursuant to paragraph (a) of
25 subsection (3) of Section 48 of this Act.

26 "Capital" includes the aggregate of outstanding capital
27 stock and preferred stock.

28 "Cash flow reserve account" means the account within the
29 books and records of the Commissioner of Banks and Real
30 Estate used to record funds designated to maintain a
31 reasonable Bank and Trust Company Fund operating balance to
32 meet agency obligations on a timely basis.

33 "Charter" includes the original charter and all
34 amendments thereto and articles of merger or consolidation.

1 "Commissioner" means the Commissioner of Banks and Real
2 Estate or a person authorized by the Commissioner, the Office
3 of Banks and Real Estate Act, or this Act to act in the
4 Commissioner's stead.

5 "Commonly owned banks" means 2 or more banks that each
6 qualify as a bank subsidiary of the same bank holding company
7 pursuant to Section 18 of the Federal Deposit Insurance Act;
8 "commonly owned bank" refers to one of a group of commonly
9 owned banks but only with respect to one or more of the other
10 banks in the same group.

11 "Community" means a city, village, or incorporated town
12 and also includes the area served by the banking offices of a
13 bank, but need not be limited or expanded to conform to the
14 geographic boundaries of units of local government in this
15 State.

16 "Company" means a corporation, limited liability company,
17 partnership, business trust, association, or similar
18 organization and, unless specifically excluded, includes a
19 "State bank" and a "bank".

20 "Consolidating bank" means a party to a consolidation.

21 "Consolidation" takes place when 2 or more banks, or a
22 trust company and a bank, are extinguished and by the same
23 process a new bank is created, taking over the assets and
24 assuming the liabilities of the banks or trust company
25 passing out of existence.

26 "Continuing bank" means a merging bank, the charter of
27 which becomes the charter of the resulting bank.

28 "Converting bank" means a State bank converting to become
29 a national bank, or a national bank converting to become a
30 State bank.

31 "Converting trust company" means a trust company
32 converting to become a State bank.

33 "Court" means a court of competent jurisdiction.

34 "Eligible depository institution" means an insured

1 savings association that is in default, an insured savings
2 association that is in danger of default, a State or national
3 bank that is in default or a State or national bank that is
4 in danger of default, as those terms are defined in this
5 Section, or a new bank as that term defined in Section 11(m)
6 of the Federal Deposit Insurance Act or a bridge bank as that
7 term is defined in Section 11(n) of the Federal Deposit
8 Insurance Act or a new federal savings association authorized
9 under Section 11(d)(2)(f) of the Federal Deposit Insurance
10 Act.

11 "Fiduciary" means trustee, agent, executor,
12 administrator, committee, guardian for a minor or for a
13 person under legal disability, receiver, trustee in
14 bankruptcy, assignee for creditors, or any holder of similar
15 position of trust.

16 "Financial institution" means a bank, savings and loan
17 association, credit union, or any licensee under the Consumer
18 Installment Loan Act or the Sales Finance Agency Act and, for
19 purposes of Section 48.3, any proprietary network, funds
20 transfer corporation, or other entity providing electronic
21 funds transfer services, or any corporate fiduciary, its
22 subsidiaries, affiliates, parent company, or contractual
23 service provider that is examined by the Commissioner.

24 "Foundation" means the Illinois Bank Examiners' Education
25 Foundation.

26 "General obligation" means a bond, note, debenture,
27 security, or other instrument evidencing an obligation of the
28 government entity that is the issuer that is supported by the
29 full available resources of the issuer, the principal and
30 interest of which is payable in whole or in part by taxation.

31 "Guarantee" means an undertaking or promise to answer for
32 payment of another's debt or performance of another's duty,
33 liability, or obligation whether "payment guaranteed" or
34 "collection guaranteed".

1 "In danger of default" means a State or national bank, a
 2 federally chartered insured savings association or an
 3 Illinois state chartered insured savings association with
 4 respect to which the Commissioner or the appropriate federal
 5 banking agency has advised the Federal Deposit Insurance
 6 Corporation that:

7 (1) in the opinion of the Commissioner or the
 8 appropriate federal banking agency,

9 (A) the State or national bank or insured
 10 savings association is not likely to be able to meet
 11 the demands of the State or national bank's or
 12 savings association's obligations in the normal
 13 course of business; and

14 (B) there is no reasonable prospect that the
 15 State or national bank or insured savings
 16 association will be able to meet those demands or
 17 pay those obligations without federal assistance; or

18 (2) in the opinion of the Commissioner or the
 19 appropriate federal banking agency,

20 (A) the State or national bank or insured
 21 savings association has incurred or is likely to
 22 incur losses that will deplete all or substantially
 23 all of its capital; and

24 (B) there is no reasonable prospect that the
 25 capital of the State or national bank or insured
 26 savings association will be replenished without
 27 federal assistance.

28 "In default" means, with respect to a State or national
 29 bank or an insured savings association, any adjudication or
 30 other official determination by any court of competent
 31 jurisdiction, the Commissioner, the appropriate federal
 32 banking agency, or other public authority pursuant to which a
 33 conservator, receiver, or other legal custodian is appointed
 34 for a State or national bank or an insured savings

1 association.

2 "Insured savings association" means any federal savings
3 association chartered under Section 5 of the federal Home
4 Owners' Loan Act and any State savings association chartered
5 under the Illinois Savings and Loan Act of 1985 or a
6 predecessor Illinois statute, the deposits of which are
7 insured by the Federal Deposit Insurance Corporation. The
8 term also includes a savings bank organized or operating
9 under the Savings Bank Act.

10 "Insured savings association in recovery" means an
11 insured savings association that is not an eligible
12 depository institution and that does not meet the minimum
13 capital requirements applicable with respect to the insured
14 savings association.

15 "Issuer" means for purposes of Section 33 every person
16 who shall have issued or proposed to issue any security;
17 except that (1) with respect to certificates of deposit,
18 voting trust certificates, collateral-trust certificates, and
19 certificates of interest or shares in an unincorporated
20 investment trust not having a board of directors (or persons
21 performing similar functions), "issuer" means the person or
22 persons performing the acts and assuming the duties of
23 depositor or manager pursuant to the provisions of the trust,
24 agreement, or instrument under which the securities are
25 issued; (2) with respect to trusts other than those specified
26 in clause (1) above, where the trustee is a corporation
27 authorized to accept and execute trusts, "issuer" means the
28 entrusters, depositors, or creators of the trust and any
29 manager or committee charged with the general direction of
30 the affairs of the trust pursuant to the provisions of the
31 agreement or instrument creating the trust; and (3) with
32 respect to equipment trust certificates or like securities,
33 "issuer" means the person to whom the equipment or property
34 is or is to be leased or conditionally sold.

1 "Letter of credit" and "customer" shall have the meanings
2 ascribed to those terms in Section 5-102 of the Uniform
3 Commercial Code.

4 "Main banking premises" means the location that is
5 designated in a bank's charter as its main office.

6 "Maker or obligor" means for purposes of Section 33 the
7 issuer of a security, the promisor in a debenture or other
8 debt security, or the mortgagor or grantor of a trust deed or
9 similar conveyance of a security interest in real or personal
10 property.

11 "Merged bank" means a merging bank that is not the
12 continuing, resulting, or surviving bank in a consolidation
13 or merger.

14 "Merger" includes consolidation.

15 "Merging bank" means a party to a bank merger.

16 "Merging trust company" means a trust company party to a
17 merger with a State bank.

18 "Mid-tier bank holding company" means a corporation that
19 (a) owns 100% of the issued and outstanding shares of each
20 class of stock of a State bank, (b) has no other
21 subsidiaries, and (c) 100% of the issued and outstanding
22 shares of the corporation are owned by a parent bank holding
23 company.

24 "Municipality" means any municipality, political
25 subdivision, school district, taxing district, or agency.

26 "National bank" means a national banking association
27 located in this State and after May 31, 1997, means a
28 national banking association without regard to its location.

29 "Out-of-state bank" means a bank chartered under the laws
30 of a state other than Illinois, a territory of the United
31 States, or the District of Columbia.

32 "Parent bank holding company" means a corporation that is
33 a bank holding company as that term is defined in the
34 Illinois Bank Holding Company Act of 1957 and owns 100% of

1 the issued and outstanding shares of a mid-tier bank holding
2 company.

3 "Person" means an individual, corporation, limited
4 liability company, partnership, joint venture, trust, estate,
5 or unincorporated association.

6 "Public agency" means the State of Illinois, the various
7 counties, townships, cities, towns, villages, school
8 districts, educational service regions, special road
9 districts, public water supply districts, fire protection
10 districts, drainage districts, levee districts, sewer
11 districts, housing authorities, the Illinois Bank Examiners'
12 Education Foundation, the Chicago Park District, and all
13 other political corporations or subdivisions of the State of
14 Illinois, whether now or hereafter created, whether herein
15 specifically mentioned or not, and shall also include any
16 other state or any political corporation or subdivision of
17 another state.

18 "Public funds" or "public money" means current operating
19 funds, special funds, interest and sinking funds, and funds
20 of any kind or character belonging to, in the custody of, or
21 subject to the control or regulation of the United States or
22 a public agency. "Public funds" or "public money" shall
23 include funds held by any of the officers, agents, or
24 employees of the United States or of a public agency in the
25 course of their official duties and, with respect to public
26 money of the United States, shall include Postal Savings
27 funds.

28 "Published" means, unless the context requires otherwise,
29 the publishing of the notice or instrument referred to in
30 some newspaper of general circulation in the community in
31 which the bank is located at least once each week for 3
32 successive weeks. Publishing shall be accomplished by, and
33 at the expense of, the bank required to publish. Where
34 publishing is required, the bank shall submit to the

1 Commissioner that evidence of the publication as the
2 Commissioner shall deem appropriate.

3 "Qualified financial contract" means any security
4 contract, commodity contract, forward contract, including
5 spot and forward foreign exchange contracts, repurchase
6 agreement, swap agreement, and any similar agreement, any
7 option to enter into any such agreement, including any
8 combination of the foregoing, and any master agreement for
9 such agreements. A master agreement, together with all
10 supplements thereto, shall be treated as one qualified
11 financial contract. The contract, option, agreement, or
12 combination of contracts, options, or agreements shall be
13 reflected upon the books, accounts, or records of the bank,
14 or a party to the contract shall provide documentary evidence
15 of such agreement.

16 "Recorded" means the filing or recording of the notice or
17 instrument referred to in the office of the Recorder of the
18 county wherein the bank is located.

19 "Resulting bank" means the bank resulting from a merger
20 or conversion.

21 "Securities" means stocks, bonds, debentures, notes, or
22 other similar obligations.

23 "Stand-by letter of credit" means a letter of credit
24 under which drafts are payable upon the condition the
25 customer has defaulted in performance of a duty, liability,
26 or obligation.

27 "State bank" means any banking corporation that has a
28 banking charter issued by the Commissioner under this Act.

29 "State Banking Board" means the State Banking Board of
30 Illinois.

31 "Subsidiary" with respect to a specified company means a
32 company that is controlled by the specified company. For
33 purposes of paragraphs (8) and (12) of Section 5 of this Act,
34 "control" means the exercise of operational or managerial

1 control of a corporation by the bank, either alone or
2 together with other affiliates of the bank.

3 "Surplus" means the aggregate of (i) amounts paid in
4 excess of the par value of capital stock and preferred stock;
5 (ii) amounts contributed other than for capital stock and
6 preferred stock and allocated to the surplus account; and
7 (iii) amounts transferred from undivided profits.

8 "Tier 1 Capital" and "Tier 2 Capital" have the meanings
9 assigned to those terms in regulations promulgated for the
10 appropriate federal banking agency of a state bank, as those
11 regulations are now or hereafter amended.

12 "Trust company" means a limited liability company or
13 corporation incorporated in this State for the purpose of
14 accepting and executing trusts.

15 "Undivided profits" means undistributed earnings less
16 discretionary transfers to surplus.

17 "Unimpaired capital and unimpaired surplus", for the
18 purposes of paragraph (21) of Section 5 and Sections 32, 33,
19 34, 35.1, 35.2, and 47 of this Act means the sum of the state
20 bank's Tier 1 Capital and Tier 2 Capital plus such other
21 shareholder equity as may be included by regulation of the
22 Commissioner. Unimpaired capital and unimpaired surplus
23 shall be calculated on the basis of the date of the last
24 quarterly call report filed with the Commissioner preceding
25 the date of the transaction for which the calculation is
26 made, provided that: (i) when a material event occurs after
27 the date of the last quarterly call report filed with the
28 Commissioner that reduces or increases the bank's unimpaired
29 capital and unimpaired surplus by 10% or more, then the
30 unimpaired capital and unimpaired surplus shall be calculated
31 from the date of the material event for a transaction
32 conducted after the date of the material event; and (ii) if
33 the Commissioner determines for safety and soundness reasons
34 that a state bank should calculate unimpaired capital and

1 unimpaired surplus more frequently than provided by this
2 paragraph, the Commissioner may by written notice direct the
3 bank to calculate unimpaired capital and unimpaired surplus
4 at a more frequent interval. In the case of a state bank
5 newly chartered under Section 13 or a state bank resulting
6 from a merger, consolidation, or conversion under Sections 21
7 through 26 for which no preceding quarterly call report has
8 been filed with the Commissioner, unimpaired capital and
9 unimpaired surplus shall be calculated for the first calendar
10 quarter on the basis of the effective date of the charter,
11 merger, consolidation, or conversion.

12 (Source: P.A. 89-208, eff. 9-29-95; 89-364, eff. 8-18-95;
13 89-508, eff. 7-3-96; 89-534, eff. 1-1-97; 89-567, eff.
14 7-26-96; 89-626, eff. 8-9-96; 90-14, eff. 7-1-97; 90-301,
15 eff. 8-1-97.)

16 (205 ILCS 5/5) (from Ch. 17, par. 311)

17 Sec. 5. General corporate powers. A bank organized
18 under this Act or subject hereto shall be a body corporate
19 and politic and shall, without specific mention thereof in
20 the charter, have all the powers conferred by this Act and
21 the following additional general corporate powers:

22 (1) To sue and be sued, complain, and defend in its
23 corporate name.

24 (2) To have a corporate seal, which may be altered at
25 pleasure, and to use the same by causing it or a facsimile
26 thereof to be impressed or affixed or in any manner
27 reproduced, provided that the affixing of a corporate seal to
28 an instrument shall not give the instrument additional force
29 or effect, or change the construction thereof, and the use of
30 a corporate seal is not mandatory.

31 (3) To make, alter, amend, and repeal bylaws, not
32 inconsistent with its charter or with law, for the
33 administration of the affairs of the bank. If this Act does

1 not provide specific guidance in matters of corporate
2 governance, the provisions of the Business Corporation Act of
3 1983 may be used if so provided in the bylaws.

4 (4) To elect or appoint and remove officers and agents
5 of the bank and define their duties and fix their
6 compensation.

7 (5) To adopt and operate reasonable bonus plans,
8 profit-sharing plans, stock-bonus plans, stock-option plans,
9 pension plans and similar incentive plans for its directors,
10 officers and employees.

11 (5.1) To manage, operate and administer a fund for the
12 investment of funds by a public agency or agencies, including
13 any unit of local government or school district, or any
14 person. The fund for a public agency shall invest in the
15 same type of investments and be subject to the same
16 limitations provided for the investment of public funds. The
17 fund for public agencies shall maintain a separate ledger
18 showing the amount of investment for each public agency in
19 the fund. "Public funds" and "public agency" as used in this
20 Section shall have the meanings ascribed to them in Section 1
21 of the Public Funds Investment Act.

22 (6) To make reasonable donations for the public welfare
23 or for charitable, scientific, religious or educational
24 purposes.

25 (7) To borrow or incur an obligation; and to pledge its
26 assets:

27 (a) to secure its borrowings, its lease of personal
28 or real property or its other nondeposit obligations;

29 (b) to enable it to act as agent for the sale of
30 obligations of the United States;

31 (c) to secure deposits of public money of the
32 United States, whenever required by the laws of the
33 United States, including without being limited to,
34 revenues and funds the deposit of which is subject to the

1 control or regulation of the United States or any of its
2 officers, agents, or employees and Postal Savings funds;

3 (d) to secure deposits of public money of any state
4 or of any political corporation or subdivision thereof
5 including, without being limited to, revenues and funds
6 the deposit of which is subject to the control or
7 regulation of any state or of any political corporation
8 or subdivisions thereof or of any of their officers,
9 agents, or employees;

10 (e) to secure deposits of money whenever required
11 by the National Bankruptcy Act;

12 (f) (blank); and

13 (g) to secure trust funds commingled with the
14 bank's funds, whether deposited by the bank or an
15 affiliate of the bank, pursuant to Section 2-8 of the
16 Corporate Fiduciary Act.

17 (8) To own, possess, and carry as assets all or part of
18 the real estate necessary in or with which to do its banking
19 business, either directly or indirectly through the ownership
20 of all or part of the capital stock, shares or interests in
21 any corporation, association, trust engaged in holding any
22 part or parts or all of the bank premises, engaged in such
23 business and in conducting a safe deposit business in the
24 premises or part of them, or engaged in any activity that the
25 bank is permitted to conduct in a subsidiary pursuant to
26 paragraph (12) of this Section 5.

27 (9) To own, possess, and carry as assets other real
28 estate to which it may obtain title in the collection of its
29 debts or that was formerly used as a part of the bank
30 premises, but title to any real estate except as herein
31 permitted shall not be retained by the bank, either directly
32 or by or through a subsidiary, as permitted by subsection
33 (12) of this Section for a total period of more than 10 years
34 after acquiring title, either directly or indirectly.

1 (10) To do any act, including the acquisition of stock,
2 necessary to obtain insurance of its deposits, or part
3 thereof, and any act necessary to obtain a guaranty, in whole
4 or in part, of any of its loans or investments by the United
5 States or any agency thereof, and any act necessary to sell
6 or otherwise dispose of any of its loans or investments to
7 the United States or any agency thereof, and to acquire and
8 hold membership in the Federal Reserve System.

9 (11) Notwithstanding any other provisions of this Act or
10 any other law, to do any act and to own, possess, and carry
11 as assets property of the character, including stock, that is
12 at the time authorized or permitted to national banks by an
13 Act of Congress, but subject always to the same limitations
14 and restrictions as are applicable to national banks by the
15 pertinent federal law and subject to applicable provisions of
16 the Financial Institutions Insurance Sales Law.

17 (12) To own, possess, and carry as assets stock of one
18 or more corporations that is, or are, engaged in one or more
19 of the following businesses:

20 (a) holding title to and administering assets
21 acquired as a result of the collection or liquidating of
22 loans, investments, or discounts; or

23 (b) holding title to and administering personal
24 property acquired by the bank, directly or indirectly
25 through a subsidiary, for the purpose of leasing to
26 others, provided the lease or leases and the investment
27 of the bank, directly or through a subsidiary, in that
28 personal property otherwise comply with Section 35.1 of
29 this Act; or

30 (c) carrying on or administering any of the
31 activities excepting the receipt of deposits or the
32 payment of checks or other orders for the payment of
33 money in which a bank may engage in carrying on its
34 general banking business; provided, however, that nothing

1 contained in this paragraph (c) shall be deemed to permit
2 a bank organized under this Act or subject hereto to do,
3 either directly or indirectly through any subsidiary, any
4 act, including the making of any loan or investment, or
5 to own, possess, or carry as assets any property that if
6 done by or owned, possessed, or carried by the State bank
7 would be in violation of or prohibited by any provision
8 of this Act.

9 The provisions of this subsection (12) shall not apply to
10 and shall not be deemed to limit the powers of a State bank
11 with respect to the ownership, possession, and carrying of
12 stock that a State bank is permitted to own, possess, or
13 carry under this Act.

14 Any bank intending to establish a subsidiary under this
15 subsection (12) shall give written notice to the Commissioner
16 60 days prior to the subsidiary's commencing of business or,
17 as the case may be, prior to acquiring stock in a corporation
18 that has already commenced business. After receiving the
19 notice, the Commissioner may waive or reduce the balance of
20 the 60 day notice period. The Commissioner may specify the
21 form of the notice and may promulgate rules and regulations
22 to administer this subsection (12).

23 (13) To accept for payment at a future date not
24 exceeding one year from the date of acceptance, drafts drawn
25 upon it by its customers; and to issue, advise, or confirm
26 letters of credit authorizing the holders thereof to draw
27 drafts upon it or its correspondents.

28 (14) To own and lease personal property acquired by the
29 bank at the request of a prospective lessee and upon the
30 agreement of that person to lease the personal property
31 provided that the lease, the agreement with respect thereto,
32 and the amount of the investment of the bank in the property
33 comply with Section 35.1 of this Act.

34 (15) (a) To establish and maintain, in addition to the

1 main banking premises, branches offering any banking
2 services permitted at the main banking premises of a
3 State bank.

4 (b) To establish and maintain, after May 31, 1997,
5 branches in another state that may conduct any activity
6 in that state that is authorized or permitted for any
7 bank that has a banking charter issued by that state,
8 subject to the same limitations and restrictions that are
9 applicable to banks chartered by that state.

10 (16) (Blank).

11 (17) To establish and maintain terminals, as authorized
12 by the Electronic Fund Transfer Act.

13 (18) To establish and maintain temporary service booths
14 at any International Fair held in this State which is
15 approved by the United States Department of Commerce, for the
16 duration of the international fair for the sole purpose of
17 providing a convenient place for foreign trade customers at
18 the fair to exchange their home countries' currency into
19 United States currency or the converse. This power shall not
20 be construed as establishing a new place or change of
21 location for the bank providing the service booth.

22 (19) To indemnify its officers, directors, employees,
23 and agents, as authorized for corporations under Section 8.75
24 of the Business Corporation Act of 1983.

25 (20) To own, possess, and carry as assets stock of, or
26 be or become a member of, any corporation, mutual company,
27 association, trust, or other entity formed exclusively for
28 the purpose of providing directors' and officers' liability
29 and bankers' blanket bond insurance or reinsurance to and for
30 the benefit of the stockholders, members, or beneficiaries,
31 or their assets or businesses, or their officers, directors,
32 employees, or agents, and not to or for the benefit of any
33 other person or entity or the public generally.

34 (21) To make debt or equity investments in corporations

1 or projects, whether for profit or not for profit, designed
 2 to promote the development of the community and its welfare,
 3 provided that the aggregate investment in all of these
 4 corporations and in all of these projects does not exceed 10%
 5 of the unimpaired capital and unimpaired surplus of the bank
 6 and provided that this limitation shall not apply to
 7 creditworthy loans by the bank to those corporations or
 8 projects. Upon written application to the Commissioner, a
 9 bank may make an investment that would, when aggregated with
 10 all other such investments, exceed 10% of the unimpaired
 11 capital and unimpaired surplus of the bank. The Commissioner
 12 may approve the investment if he is of the opinion and finds
 13 that the proposed investment will not have a material adverse
 14 effect on the safety and soundness of the bank.

15 (22) To own, possess, and carry as assets the stock of a
 16 corporation engaged in the ownership or operation of a travel
 17 agency or to operate a travel agency as a part of its
 18 business, ~~provided that the bank either owned, possessed, and~~
 19 ~~carried as assets the stock of such a corporation or operated~~
 20 ~~a travel agency as part of its business before July 1, 1991.~~

21 (23) With respect to affiliate facilities:

22 (a) to conduct at affiliate facilities for and on
 23 behalf of another commonly owned bank, if so authorized
 24 by the other bank, all transactions that the other bank
 25 is authorized or permitted to perform; and

26 (b) to authorize a commonly owned bank to conduct
 27 for and on behalf of it any of the transactions it is
 28 authorized or permitted to perform at one or more
 29 affiliate facilities.

30 Any bank intending to conduct or to authorize a commonly
 31 owned bank to conduct at an affiliate facility any of the
 32 transactions specified in this paragraph (23) shall give
 33 written notice to the Commissioner at least 30 days before
 34 any such transaction is conducted at the affiliate facility.

1 (24) To act as the agent for any fire, life, or other
2 insurance company authorized by the State of Illinois, by
3 soliciting and selling insurance and collecting premiums on
4 policies issued by such company; and to receive for services
5 so rendered such fees or commissions as may be agreed upon
6 between the bank and the insurance company for which it may
7 act as agent; provided, however, that no such bank shall in
8 any case assume or guarantee the payment of any premium on
9 insurance policies issued through its agency by its
10 principal; and provided further, that the bank shall not
11 guarantee the truth of any statement made by an assured in
12 filing his application for insurance.

13 (25) Notwithstanding any other provisions of this Act or
14 any other law, to offer any product or service that is at the
15 time authorized or permitted to any insured savings
16 association or out-of-state bank by applicable law, provided
17 that powers conferred only by this subsection (25):

18 (a) shall always be subject to the same limitations
19 and restrictions that are applicable to the insured
20 savings association or out-of-state bank for the product
21 or service by such applicable law;

22 (b) shall be subject to applicable provisions of
23 the Financial Institutions Insurance Sales Law;

24 (c) shall not include the right to own or conduct a
25 real estate brokerage business for which a license would
26 be required under the laws of this State; and

27 (d) shall not be construed to include the
28 establishment or maintenance of a branch, nor shall they
29 be construed to limit the establishment or maintenance of
30 a branch pursuant to subsection (11).

31 (Source: P.A. 90-41, eff. 10-1-97; 90-301, eff. 8-1-97;
32 90-655, eff. 7-30-98; 90-665, eff. 7-30-98; 91-330, eff.
33 7-29-99; 91-849, eff. 6-22-00.)

1 (205 ILCS 5/5b) (from Ch. 17, par. 312.1)

2 Sec. 5b. Deposits in outside depository.

3 (a) Except as provided in subsection (b), every bank is
4 liable for deposits made in an outside depository from the
5 time the deposit is made.

6 (b) A bank may adopt a policy that its liability for
7 deposits made in outside depositories will be delayed until
8 the deposits are recorded, and, if such a policy is adopted
9 and depositors are notified in writing at least 21 days in
10 advance of the effective date of such policy, the bank's
11 liability will be delayed in accordance with the policy. In
12 case of deposit accounts opened after such a policy is
13 adopted, the policy shall be effective if the depositor is
14 given written notice of the policy at the time the deposit
15 account is opened.

16 (c) For the purposes of this Section "outside
17 depository" means any receptacle attached to a main banking
18 premise, or branch, as allowed in subsection (15) of Section
19 5 of this Act, or other location for the purpose of making
20 deposits either during or after regular banking hours, but
21 does not include an automatic teller machine or point of sale
22 terminal, as defined in the Electronic Fund Transfer Act.

23 (Source: P.A. 88-273; 89-310, eff. 1-1-96.)

24 (205 ILCS 5/7) (from Ch. 17, par. 314)

25 Sec. 7. Organization capital requirements. A bank may be
26 organized to exercise the powers conferred by this Act with
27 minimum capital and surplus as determined by the
28 Commissioner. ~~The---Commissioner---shall---record---such~~
29 ~~organization--capital--requirements--in--the--Office--of--the~~
30 ~~Secretary-of-State.~~

31 (Source: P.A. 90-301, eff. 8-1-97.)

32 (205 ILCS 5/8) (from Ch. 17, par. 315)

1 Sec. 8. Incorporators. A State bank may be organized on
 2 application by 5 or more incorporators who shall be
 3 individuals except that a bank holding company may be the
 4 sole incorporator of a State bank. Each--incorporator--shall
 5 undertake--to--subscribe--and--pay--in--full--in--cash--for--stock
 6 having--a--value--of--not--less--than--one--per--cent--of--the--minimum
 7 capital--and--surplus--requirements--as--set--forth--in--Section--7,
 8 except--that--incorporators--of--a--State--bank--that--will--be--owned
 9 by--a--bank--holding--company--may--subscribe--and--pay--in--full--in
 10 cash--for--stock--of--the--bank--holding--company,--provided--that--the
 11 incorporator's--investment--in--the--bank--holding--company--must--at
 12 least--equal--the--amount--of--money--that--would--have--been--needed
 13 for--the--incorporator--to--acquire--shares--of--the--bank's--stock
 14 pursuant--to--this--Section.

15 (Source: P.A. 90-301, eff. 8-1-97.)

16 (205 ILCS 5/10) (from Ch. 17, par. 317)

17 Sec. 10. Permit to organize.

18 (a) Upon the filing of an application for a permit to
 19 organize, the Commissioner shall investigate the truth of the
 20 statements therein and shall consider the proposed bank's
 21 capital structure, its future earnings prospects, the general
 22 character, experience, and qualifications of its proposed
 23 management, its proposed plan of operation, and the
 24 convenience and needs of the area sought to be served, and
 25 notwithstanding the provisions of Section 7 of this Act, the
 26 Commissioner shall not approve the application and issue a
 27 permit to organize unless he shall be of the opinion and
 28 finds:

29 (1) that the proposed capital at least meets the
 30 minimum requirements of this Act determined by the
 31 Commissioner pursuant to Section 7 of this Act including
 32 additional capital necessitated by the circumstances of
 33 the proposed bank including its size, scope of

1 operations and market in which it proposes to operate;

2 (2) that the future earnings prospects are
3 favorable;

4 (3) that the general character, experience, and
5 qualifications of its proposed management and its
6 proposed plan of operation are such as to assure
7 reasonable promise of successful, safe and sound
8 operation;

9 (4) that the name of the proposed bank is not the
10 same as or deceptively similar to a name reserved with
11 the Commissioner's office under Section 9.5 or to the
12 name of any other bank then operating in this State; and

13 (5) that the convenience and needs of the area
14 sought to be served by the proposed bank will be
15 promoted.

16 (b) The Commissioner shall revoke the permit to organize
17 and order liquidation of any funds collected in the event
18 that the organizers do not obtain a charter from the
19 Commissioner authorizing the bank to commence business within
20 6 months from the date of the issuance of the permit, unless
21 a request has been submitted, in writing, to the Commissioner
22 for an extension and the request has been approved.

23 (c) The Commissioner may impose such terms and
24 conditions, if any, on the issuance of the permit to organize
25 as the Commissioner deems appropriate and necessary for the
26 organization of the bank.

27 (Source: P.A. 90-665, eff. 7-30-98; 91-452, eff. 1-1-00.)

28 (205 ILCS 5/12) (from Ch. 17, par. 319)
29 Sec. 12. Organization.

30 (a) The directors so elected shall may proceed to
31 organize in conformity with this Act and as follows:

32 (1) To qualify themselves as directors.

33 (2) To elect one of their number as president.

1 (3) To make and adopt by-laws not inconsistent with
2 its charter or with law for the administration of the
3 affairs of the bank.

4 (4) To appoint such officers as the by-laws may
5 provide, and fix the salaries of all officers.

6 (5) To furnish to the Commissioner lists of the
7 stockholders and copies of any other records the
8 Commissioner may require.

9 (6) To collect the subscriptions to the capital
10 stock and to the preferred stock, if any, including the
11 surplus and the reserves for operating expenses.

12 (6.5) To notify the Commissioner of any significant
13 deviation or change from the original plan of operation
14 or proposed business activities submitted with the
15 application for a permit to organize.

16 (7) To report the organization to the Commissioner.

17 (b) Subscriptions to the capital stock and to the
18 preferred stock, if any, collected pursuant to item (6) of
19 subsection (a) of this Section must be placed in escrow.

20 (Source: P.A. 85-204.)

21 (205 ILCS 5/13) (from Ch. 17, par. 320)

22 Sec. 13. Issuance of charter.

23 (a) When the directors have organized as provided in
24 Section 12 of this Act, and the capital stock and the
25 preferred stock, if any, together with a surplus of not less
26 than 50% of the capital, has been all fully paid in and a
27 record of the same filed with the Commissioner, the
28 Commissioner or some competent person of the Commissioner's
29 appointment shall make a thorough examination into the
30 affairs of the proposed bank, and if satisfied (i) that all
31 the requirements of this Act have been complied with, (ii)
32 that no intervening circumstance has occurred to change the
33 Commissioner's findings made pursuant to Section 10 of this

1 Act, and (iii) that the prior involvement by any stockholder
2 who will own a sufficient amount of stock to have control, as
3 defined in Section 18 of this Act, of the proposed bank with
4 any other financial institution, whether as stockholder,
5 director, officer, or customer, was conducted in a safe and
6 sound manner, upon payment into the Commissioner's office of
7 the reasonable expenses of the examination, as determined by
8 the Commissioner, the Commissioner shall issue a charter
9 authorizing the bank to commence business as authorized in
10 this Act. All charters issued by the Commissioner or any
11 predecessor agency which chartered State banks, including any
12 charter outstanding as of September 1, 1989, shall be
13 perpetual. For the 2 years after the Commissioner has issued
14 a charter to a bank, the bank shall request and obtain from
15 the Commissioner prior written approval before it may change
16 senior management personnel or directors.

17 The original charter, duly certified by the Commissioner,
18 or a certified copy shall be evidence in all courts and
19 places of the existence and authority of the bank to do
20 business. Upon the issuance of the charter by the
21 Commissioner, the bank shall be deemed fully organized and
22 may proceed to do business. The Commissioner may, in the
23 Commissioner's discretion, withhold the issuing of the
24 charter when the Commissioner has reason to believe that the
25 bank is organized for any purpose other than that
26 contemplated by this Act ~~or that a commission or fee has been~~
27 ~~paid in connection with the sale of the stock of the bank.~~
28 The Commissioner shall revoke the charter and order
29 liquidation in the event that the bank does not commence a
30 general banking business within one year from the date of the
31 issuance of the charter, unless a request has been submitted,
32 in writing, to the Commissioner for an extension and the
33 request has been approved. After commencing a general
34 banking business, a bank may change its name by filing

1 written notice with the Commissioner at least 30 days prior
2 to the effective date of such change. A bank chartered under
3 this Act may change its main banking premises by filing
4 written application with the Commissioner, on forms
5 prescribed by the Commissioner, provided (i) the change shall
6 not be a removal to a new location without complying with the
7 capital requirements of Section 7 and of subsection (1) of
8 Section 10 of this Act; (ii) the Commissioner approves the
9 relocation or change; and (iii) the bank complies with any
10 applicable federal law or regulation. The application shall
11 be deemed to be approved if the Commissioner has not acted on
12 the application within 30 days after receipt of the
13 application, unless within the 30-day time frame the
14 Commissioner informs the bank that an extension of time is
15 necessary prior to the Commissioner's action on the
16 application.

17 (b) (1) The Commissioner may also issue a charter to a
18 bank that is owned exclusively by other depository
19 institutions or depository institution holding companies and
20 is organized to engage exclusively in providing services to
21 or for other depository institutions, their holding
22 companies, and the officers, directors, and employees of such
23 institutions and companies, and in providing correspondent
24 banking services at the request of other depository
25 institutions or their holding companies (also referred to as
26 a "bankers' bank").

27 (2) A bank chartered pursuant to paragraph (1) shall,
28 except as otherwise specifically determined or limited by the
29 Commissioner in an order or pursuant to a rule, be vested
30 with the same rights and privileges and subject to the same
31 duties, restrictions, penalties, and liabilities now or
32 hereafter imposed under this Act.

33 (c) A bank chartered under this Act after November 1,
34 1985, and an out-of-state bank that merges with a State bank

1 and establishes or maintains a branch in this State after May
2 31, 1997, shall obtain from and, at all times while it
3 accepts or retains deposits, maintain with the Federal
4 Deposit Insurance Corporation, or such other instrumentality
5 of or corporation chartered by the United States, deposit
6 insurance as authorized under federal law.

7 (d) (i) A bank that has a banking charter issued by the
8 Commissioner under this Act may, pursuant to a written
9 purchase and assumption agreement, transfer substantially all
10 of its assets to another State bank or national bank in
11 consideration, in whole or in part, for the transferee banks'
12 assumption of any part or all of its liabilities. Such a
13 transfer shall in no way be deemed to impair the charter of
14 the transferor bank or cause the transferor bank to forfeit
15 any of its rights, powers, interests, franchises, or
16 privileges as a State bank, nor shall any voluntary reduction
17 in the transferor bank's activities resulting from the
18 transfer have any such effect; provided, however, that a
19 State bank that transfers substantially all of its assets
20 pursuant to this subsection (d) and following the transfer
21 does not accept deposits and make loans, shall not have any
22 rights, powers, interests, franchises, or privileges under
23 subsection (15) of Section 5 of this Act until the bank has
24 resumed accepting deposits and making loans.

25 (ii) The fact that a State bank does not resume
26 accepting deposits and making loans for a period of 24 months
27 commencing on September 11, 1989 or on a date of the transfer
28 of substantially all of a State bank's assets, whichever is
29 later, or such longer period as the Commissioner may allow in
30 writing, may be the basis for a finding by the Commissioner
31 under Section 51 of this Act that the bank is unable to
32 continue operations.

33 (iii) The authority provided by subdivision (i) of this
34 subsection (d) shall terminate on May 31, 1997, and no bank

1 that has transferred substantially all of its assets pursuant
2 to this subsection (d) shall continue in existence after May
3 31, 1997.

4 (Source: P.A. 90-14, eff. 7-1-97; 90-301, eff. 8-1-97;
5 90-665, eff. 7-30-98; 91-322, eff. 1-1-00.)

6 (205 ILCS 5/13.5)

7 Sec. 13.5. Formation and merger of interim banks.

8 (a) An interim bank may be chartered as a State bank for
9 the exclusive purpose of accomplishing a corporate
10 restructuring through merger with an existing State bank,
11 national bank, trust company, or an insured savings
12 association. An interim bank shall be chartered and merged
13 pursuant to the provisions of this Section. The interim bank
14 shall not accept deposits, make loans, pay checks, or engage
15 in the general banking business or any part thereof, and
16 shall not be subject to the provisions of this Act other than
17 those set forth in this Section; provided, however, that if
18 the interim bank becomes the resulting bank in a merger, such
19 resulting bank shall have all of the powers, rights, and
20 duties of a State bank and must comply with all applicable
21 provisions of this Act.

22 (b) An interim State bank may be organized upon
23 application by 5 or more incorporators or by a bank holding
24 company. The application shall be made on forms prescribed
25 by the Commissioner which shall request, at a minimum, the
26 following information:

- 27 (1) the names and addresses of the incorporators;
- 28 (2) the proposed name and address of the interim
29 bank;
- 30 (3) the name and address of all banks with which
31 the interim bank will be merging;
- 32 (4) a copy of the merger agreement by which the
33 interim bank will be merged with the banks identified in

1 item (3) containing the same information required in
2 merger agreements pursuant to subsection (1) of Section
3 22 of this Act; and

4 (5) an acknowledgement that the interim bank shall
5 not engage in the general banking business or any part
6 thereof unless and until the interim bank becomes the
7 resulting bank in a merger.

8 (c) The merger agreement must be approved by all of the
9 incorporators of the interim bank and must be approved by the
10 existing State bank with which the interim bank will merge,
11 as required by Section 22 of this Act.

12 (d) Upon receipt of the application to organize the
13 interim bank and the merger agreement submitted pursuant to
14 this Section and Section 22 of this Act, the Commissioner may
15 issue a charter to the interim bank and approve the merger
16 agreement if the Commissioner makes the findings set forth in
17 subsection (3) of Section 22 of this Act. The interim bank's
18 charter shall not take effect until, and shall only be
19 effective for purposes of, the merger.

20 (e) Nothing in this Section affects the obligations of
21 an existing State bank with which the interim bank will
22 merge, or the rights of minority or dissenting shareholders
23 of the existing State bank, in connection with the approval,
24 execution, and accomplishment of a merger agreement as
25 provided elsewhere in this Act.

26 (Source: P.A. 90-301, eff. 8-1-97.)

27 (205 ILCS 5/14) (from Ch. 17, par. 321)

28 Sec. 14. Stock. Unless otherwise provided for in this
29 Act provisions of general application to stock of a state
30 bank shall be as follows:

31 (1) All banks shall have their capital divided into
32 shares of a par value of not less than \$1 ~~one-dollar~~ each and
33 not more than \$100 ~~one-hundred-dollars~~ each, however, the par

1 value of shares of a bank effecting a reverse stock split
2 pursuant to item (8) of subsection (a) of Section 17 may
3 temporarily exceed this limit provided it conforms to the
4 limits immediately after the reverse stock split is
5 completed. No issue of capital stock or preferred stock shall
6 be valid until not less than the par value of all such stock
7 so issued shall be paid in and notice thereof by the
8 president, a vice-president or cashier of the bank has been
9 transmitted to the Commissioner. In the case of an increase
10 in capital stock by the declaration of a stock dividend, the
11 capitalization of retained earnings effected by such stock
12 dividend shall constitute the payment for such shares
13 required by the preceding sentence, provided that the surplus
14 of said bank after such stock dividend shall be at least
15 equal to fifty per cent of the capital as increased. The
16 charter shall not limit or deny the voting power of the
17 shares of any class of stock except as provided in Section
18 15(3) of this Act.

19 (2) Pursuant to action taken in accordance with the
20 requirements of Section 17, a bank may issue preferred stock
21 of one or more classes as shall be approved by the
22 Commissioner as hereinafter provided, and make such amendment
23 to its charter as may be necessary for this purpose; but in
24 the case of any newly organized bank which has not yet issued
25 capital stock the requirements of Section 17 shall not apply.

26 (3) Without limiting the authority herein contained a
27 bank, when so provided in its charter and when approved by
28 the Commissioner, may issue shares of preferred stock:

29 (a) Subject to the right of the bank to redeem any
30 of such shares at not exceeding the price fixed by the
31 charter for the redemption thereof;

32 (b) Subject to the provisions of subsection (8) of
33 this Section 14 entitling the holders thereof to
34 cumulative or noncumulative dividends;

1 (c) Having preference over any other class or
2 classes of shares as to the payment of dividends;

3 (d) Having preference as to the assets of the bank
4 over any other class or classes of shares upon the
5 voluntary or involuntary liquidation of the bank;

6 (e) Convertible into shares of any other class of
7 stock, provided that preferred shares shall not be
8 converted into shares of a different par value unless
9 that part of the capital of the bank represented by such
10 preferred shares is at the time of the conversion equal
11 to the aggregate par value of the shares into which the
12 preferred shares are to be converted.

13 (4) If any part of the capital of a bank consists of
14 preferred stock, the determination of whether or not the
15 capital of such bank is impaired and the amount of such
16 impairment shall be based upon the par value of its stock
17 even though the amount which the holders of such preferred
18 stock shall be entitled to receive in the event of retirement
19 or liquidation shall be in excess of the par value of such
20 preferred stock.

21 (5) Pursuant to action taken in accordance with the
22 requirements of Section 17 of this Act, a state bank may
23 provide for a specified number of authorized but unissued
24 shares of capital stock for one or more of the following
25 purposes:

26 (a) Reserved for issuance under stock option plan
27 or plans to directors, officers or employees;

28 (b) Reserved for issuance upon conversion of
29 convertible preferred stock issued pursuant to and in
30 compliance with the provisions of subsections (2) and (3)
31 of this Section 14.

32 (c) Reserved for issuance upon conversion of
33 convertible debentures or other convertible evidences of
34 indebtedness issued by a state bank, provided always that

1 the terms of such conversion have been approved by the
2 Commissioner;

3 (d) Reserved for issuance by the declaration of a
4 stock dividend. If and when any shares of capital stock
5 are proposed to be authorized and reserved for any of the
6 purposes set forth in subparagraphs (a), (b) or (c)
7 above, the notice of the meeting, whether special or
8 annual, of stockholders at which such proposition is to
9 be considered shall be accompanied by a statement setting
10 forth or summarizing the terms upon which the shares of
11 capital stock so reserved are to be issued, and the
12 extent to which any preemptive rights of stockholders are
13 inapplicable to the issuance of the shares so reserved or
14 to the convertible preferred stock or convertible
15 debentures or other convertible evidences of
16 indebtedness, and the approving vote of the holders of at
17 least two-thirds of the outstanding shares of stock
18 entitled to vote at such meeting of the terms of such
19 issuance shall be requisite for the adoption of any
20 amendment providing for the reservation of authorized but
21 unissued shares for any of said purposes. Nothing in this
22 subsection (5) contained shall be deemed to authorize the
23 issuance of any capital stock for a consideration less
24 than the par value thereof.

25 (6) Upon written application to the Commissioner 60 days
26 prior to the proposed purchase and receipt of the written
27 approval of the Commissioner, a state bank may purchase and
28 hold as treasury stock such amounts of the total number of
29 issued and outstanding shares of its capital and preferred
30 stock outstanding as the Commissioner determines is
31 consistent with safety and soundness of the bank. The
32 Commissioner may specify the manner of accounting for the
33 treasury stock and the form of notice prior to ultimate
34 disposition of the shares. Except as authorized in this

1 subsection, it shall not be lawful for a state bank to
2 purchase or hold any additional such shares or securities
3 described in subsection (2) of Section 37 unless necessary to
4 prevent loss upon a debt previously contracted in good faith,
5 in which event such shares or securities so purchased or
6 acquired shall, within 6 months from the time of purchase or
7 acquisition, be sold or disposed of at public or private
8 sale. Any state bank which intends to purchase and hold
9 treasury stock as authorized in this subsection (6) shall
10 file a written application with the Commissioner 60 days
11 prior to any such proposed purchase. The application shall
12 state the number of shares to be purchased, the consideration
13 for the shares, the name and address of the person from whom
14 the shares are to be purchased, if known, and the total
15 percentage of its issued and outstanding shares to be held by
16 the bank after the purchase. The total consideration paid by
17 a state bank for treasury stock shall reduce capital and
18 surplus of the bank for purposes of Sections of this Act
19 relating to lending and investment limits which require
20 computation of capital and surplus. After considering and
21 approving an application to purchase and hold treasury stock
22 under this subsection, the Commissioner may waive or reduce
23 the balance of the 60 day application period. The
24 Commissioner may specify the form of the application for
25 approval to acquire treasury stock and promulgate rules and
26 regulations for the administration of this subsection (6). A
27 state bank may, acquire or resell its owns shares as treasury
28 stock pursuant to this subsection (6) without a change in its
29 charter pursuant to Section 17. Such stock may be held for
30 any purpose permitted in subsection (5) of this Section 14 or
31 may be resold upon such reasonable terms as the board of
32 directors may determine provided notice is given to the
33 Commissioner prior to the resale of such stock.

34 (7) During the time that a state bank shall continue its

1 banking business, it shall not withdraw or permit to be
2 withdrawn, either in the form of dividends or otherwise, any
3 portion of its capital, but nothing in this subsection shall
4 prevent a reduction or change of the capital stock or the
5 preferred stock under the provisions of Sections 17 through
6 30 of this Act, a purchase of treasury stock under the
7 provisions of subsection (6) of this Section 14 or a
8 redemption of preferred stock pursuant to charter provisions
9 therefor.

10 (8) (a) Subject to the provisions of this Act, the
11 board of directors of a state bank from time to time may
12 declare a dividend of so much of the net profits of such
13 bank as it shall judge expedient, but each bank before
14 the declaration of a dividend shall carry at least
15 one-tenth of its net profits since the date of the
16 declaration of the last preceding dividend, or since the
17 issuance of its charter in the case of its first
18 dividend, to its surplus until the same shall be equal to
19 its capital.

20 (b) No dividends shall be paid by a state bank
21 while it continues its banking business to an amount
22 greater than its net profits then on hand, deducting
23 first therefrom its losses and bad debts. All debts due
24 to a state bank on which interest is past due and unpaid
25 for a period of 6 months or more, unless the same are
26 well secured and in the process of collection, shall be
27 considered bad debts.

28 (9) A State bank may, but shall not be obliged to, issue
29 a certificate for a fractional share, and, by action of its
30 board of directors, may in lieu thereof, pay cash equal to
31 the value of the fractional share. A certificate for a
32 fractional share shall entitle the holder to exercise
33 fractional voting rights, to receive dividends, and to
34 participate in any of the assets of the bank in the event of

1 liquidation.

2 (Source: P.A. 90-160, eff. 7-23-97; 90-301, eff. 8-1-97;
3 90-655, eff. 7-30-98.)

4 (205 ILCS 5/15) (from Ch. 17, par. 322)

5 Sec. 15. Stock and stockholders. Unless otherwise
6 provided for in this Act, provisions of general application
7 to capital stock, preferred stock, and stockholders of a
8 State bank shall be as follows:

9 (1) There shall be an annual meeting of the stockholders
10 for the election of directors each year on the first business
11 day in January, unless some other date shall be fixed by the
12 by-laws. A special meeting of the stockholders may be called
13 at any time by the board of directors, and otherwise as may
14 be provided in the bylaws.

15 (2) Written or printed notice stating the place, day,
16 and hour of the meeting, and in case of a special meeting,
17 the purpose or purposes for which the meeting is called,
18 shall be delivered not less than 10 nor more than 40 days
19 before the date of the meeting either personally or by mail,
20 by or at the direction of the president, or the secretary, or
21 the officer or persons calling the meeting, to each
22 stockholder of record entitled to vote at the meeting. If
23 mailed, the notice shall be deemed to be delivered when
24 deposited in the United States mail with postage thereon
25 prepaid addressed to the stockholder at his address as it
26 appears on the records of the bank.

27 (3) Except as provided below in this paragraph (3), each
28 outstanding share shall be entitled to one vote on each
29 matter submitted to a vote at a meeting of stockholders.
30 Shares of its own stock belonging to a bank shall not be
31 voted, directly or indirectly, at any meeting and shall not
32 be counted in determining the total number of outstanding
33 shares at any given time, but shares of its own stock held by

1 it in a fiduciary capacity may be voted and shall be counted
2 in determining the total number of outstanding shares at any
3 given time. A stockholder may vote either in person or by
4 proxy executed in writing by the stockholder or by his duly
5 authorized attorney-in-fact. No proxy shall be valid after
6 11 months from the date of its execution, unless otherwise
7 provided in the proxy. Except as provided below in this
8 paragraph (3), in all elections for directors every
9 stockholder (or subscriber to the stock prior to the issuance
10 of a charter) shall have the right to vote, in person or by
11 proxy, for the number of shares of stock owned by him, for as
12 many persons as there are directors to be elected, or to
13 cumulate the shares and give one candidate as many votes as
14 the number of directors multiplied by the number of his or
15 her shares of stock shall equal, or to distribute them on the
16 same principle among as many candidates as he or she shall
17 think fit. The bank charter of any bank organized on or
18 after January 1, 1984 may limit or eliminate cumulative
19 voting rights in all or specified circumstances, or may
20 eliminate voting rights entirely, as to any class or classes
21 or series of stock of the bank; provided that one class of
22 shares or series thereof shall always have voting rights in
23 respect of all matters in the bank. A bank organized prior to
24 January 1, 1984 may amend its charter to eliminate cumulative
25 voting rights under all or specified circumstances, or to
26 eliminate voting rights entirely, as to any class or classes
27 or series of stock of the bank; provided that one class of
28 shares or series thereof shall always have voting rights in
29 respect of all matters in the bank, and provided further that
30 the proposal to eliminate the voting rights receives the
31 approval of the holders of 70% of the outstanding shares of
32 stock entitled to vote as provided in paragraph (b) (7) of
33 Section 17. A majority of the outstanding shares represented
34 in person or by proxy shall constitute a quorum at a meeting

1 of stockholders. In the absence of a quorum a meeting may be
2 adjourned from time to time without notice to the
3 stockholders.

4 (4) Whenever additional stock of a class is offered for
5 sale, stockholders of record of the same class on the date of
6 the offer shall have the right to subscribe to the proportion
7 of the shares as the stock of the class held by them bears to
8 the total of the outstanding stock of the class, and the
9 price thereof may be in excess of par value. This right
10 shall be transferable but shall terminate if not exercised
11 within 60 days of the offer, unless the Commissioner shall
12 authorize a shorter time. If the right is not exercised, the
13 stock shall not be re-offered for sale to others at a lower
14 price without the stockholders of the same class again being
15 accorded a preemptive right to subscribe at the lower price.
16 Notwithstanding any of the provisions of this paragraph (4)
17 or any other provision of law, stockholders shall not have
18 any preemptive or other right to subscribe for or to purchase
19 or acquire shares of capital stock issued or to be issued
20 under a stock-option plan or upon conversion of preferred
21 stock or convertible debentures or other convertible
22 indebtedness that has been approved by stockholders in the
23 manner required by the provisions of subsection (5) of
24 Section 14 hereof or to treasury stock acquired pursuant to
25 subsection (6) of Section 14.

26 (5) For the purpose of determining stockholders entitled
27 to notice of or to vote at any meeting of stockholders, or
28 stockholders entitled to receive payment of any dividend, or
29 in order to make a determination of stockholders for any
30 other proper purpose, the board of directors of a bank may
31 provide that the stock transfer books shall be closed for a
32 stated period not to exceed, in any case, 40 days. In lieu
33 of closing the stock transfer books, the board of directors
34 may fix in advance a date as the record date for any

1 determination of stockholders, the date in any case to be not
2 more than 40 days, and in case of a meeting of stockholders,
3 not less than 10 days prior to the date on which the
4 particular action, requiring the determination of
5 stockholders, is to be taken. If the stock transfer books
6 are not closed and no record date is fixed for the
7 determination of stockholders entitled to notice of or to
8 vote at a meeting of stockholders, or stockholders entitled
9 to receive payment of a dividend, the date on which notice of
10 a meeting is mailed or the date on which the resolution of
11 the board of directors declaring the dividend is adopted, as
12 the case may be, shall be the record date for the
13 determination of stockholders.

14 (6) Stock standing in the name of another corporation,
15 domestic or foreign, may be voted by the officer, agent, or
16 proxy as the by-laws of the corporation may prescribe, or, in
17 the absence of such provision, as the board of directors of
18 the corporation may determine. Stock standing in the name of
19 a deceased person may be voted by his or her administrator or
20 executor, either in person or by proxy. Stock standing in
21 the name of a guardian or trustee may be voted by that
22 fiduciary either in person or by proxy. Shares standing in
23 the name of a receiver may be voted by the receiver, and
24 shares held by or under control of a receiver may be voted by
25 the receiver without the transfer thereof into his or her
26 name if authority so to do be contained in an appropriate
27 order of the court by which the receiver was appointed. A
28 stockholder whose shares of stock are pledged shall be
29 entitled to vote those shares until the shares have been
30 transferred into the name of the pledgee, and thereafter the
31 pledgee shall be entitled to vote the shares so transferred.

32 (7) Shares of stock shall be transferable in accordance
33 with the general laws of this State governing the transfer of
34 corporate shares.

1 (8) The president and cashier of every State bank shall
2 cause to be kept at all times a full and correct list of the
3 names and residences of all the shareholders in the State
4 bank and the number of shares held by each in the office
5 where its business is transacted. The list shall be subject
6 to the inspection of all the shareholders of the State bank
7 and the officers authorized to assess taxes under State
8 authority during business hours of each day in which business
9 may be legally transacted. A copy of the list, verified by
10 the oath of the president or cashier, shall be transmitted to
11 the Commissioner of Banks and Real Estate within 10 days of
12 any demand therefor made by the Commissioner.

13 (9) Any number of shareholders of a bank may create a
14 voting trust for the purpose of conferring upon a trustee or
15 trustees the right to vote or otherwise represent their
16 shares for a period of not to exceed 10 years by entering
17 into a written voting trust agreement specifying the terms
18 and conditions of the voting trust and by transferring their
19 shares to the trustee or trustees for the purposes of the
20 agreement. The trust agreement shall not become effective
21 until a counterpart of the agreement is deposited with the
22 bank at its main banking premises ~~registered-office~~. The
23 counterpart of the voting trust agreement so deposited with
24 the bank shall be subject to the same right of examination by
25 a shareholder of the bank, in person or by agent or attorney,
26 as is the record of shareholders of the bank and shall be
27 subject to examination by any holder of a beneficial interest
28 in the voting trust, either in person or by agent or
29 attorney, at any reasonable time for any proper purpose.

30 (10) Voting agreements. Shareholders may provide for
31 the voting of their shares by signing an agreement for that
32 purpose. A voting agreement created under this paragraph is
33 not subject to the provisions of paragraph (9).

34 A voting agreement created under this paragraph is

1 specifically enforceable in accordance with the principles of
2 equity.

3 (Source: P.A. 89-508, eff. 7-3-96.)

4 (205 ILCS 5/16.1) (from Ch. 17, par. 323.1)

5 Sec. 16.1. One or more of the directors may be removed,
6 with or without cause, at a meeting of shareholders by the
7 affirmative vote of the holders of a majority of the
8 outstanding shares then entitled to vote at an election of
9 directors, except as follows:

10 (1) No director shall be removed at a meeting of
11 shareholders unless the notice of the meeting shall state
12 that a purpose of the meeting is to vote upon the removal of
13 one or more directors named in the notice. Only the named
14 director or directors may be removed at that meeting.

15 (2) In the case of a bank having cumulative voting, if
16 less than the entire board is to be removed, no director may
17 be removed if the votes cast against his or her removal would
18 be sufficient to elect him or her if then cumulatively voted
19 at an election of the entire board of directors.

20 (3) If a director is elected by a class or series of
21 shares, he or she may be removed only by the shareholders of
22 that class or series.

23 (4) In the case of a State bank whose board is
24 classified as provided in paragraph (3) ~~(5)~~ of Section 16 of
25 this Act, the charter or the by-laws may provide that
26 directors may be removed only for cause.

27 (Source: P.A. 86-368; 87-269.)

28 (205 ILCS 5/17) (from Ch. 17, par. 324)

29 Sec. 17. Changes in charter.

30 (a) By compliance with the provisions of this Act a
31 State bank may:

32 (1) (blank);

1 (2) increase, decrease or change its capital stock,
 2 whether issued or unissued, provided that in no case
 3 shall the capital be diminished to the prejudice of its
 4 creditors;

5 (3) provide for authorized but unissued capital
 6 stock reserved for issuance for one or more of the
 7 purposes provided for in subsection (5) of Section 14
 8 hereof;

9 (4) authorize preferred stock, or increase,
 10 decrease or change the preferences, qualifications,
 11 limitations, restrictions or special or relative rights
 12 of its preferred stock, whether issued or unissued,
 13 provided that in no case shall the capital be diminished
 14 to the prejudice of its creditors;

15 (5) increase, decrease or change the par value of
 16 its shares of its capital stock or preferred stock,
 17 whether issued or unissued;

18 (6) (blank) ~~extend-the-duration-of-its-charter;~~

19 (7) eliminate cumulative voting rights under all or
 20 specified circumstances, or eliminate voting rights
 21 entirely, as to any class or classes or series of stock
 22 of the bank pursuant to paragraph (3) of Section 15,
 23 provided that one class of shares or series thereof shall
 24 always have voting in respect to all matters in the bank,
 25 and provided further that the proposal to eliminate such
 26 voting rights receives the approval of the holders of 70%
 27 of the outstanding shares of stock entitled to vote as
 28 provided in paragraph (7) of subsection (b) of this
 29 Section 17;

30 (8) increase, decrease, or change its capital stock
 31 or preferred stock, whether issued or unissued, for the
 32 purpose of eliminating fractional shares or avoiding the
 33 issuance of fractional shares, provided that in no case
 34 shall the capital be diminished to the prejudice of its

1 creditors; or

2 (9) make such other change in its charter as may be
3 authorized in this Act.

4 (b) To effect a change or changes in a State bank's
5 charter as provided for in this Section 17:

6 (1) The board of directors shall adopt a resolution
7 setting forth the proposed amendment and directing that
8 it be submitted to a vote at a meeting of stockholders,
9 which may be either an annual or special meeting.

10 (2) If the meeting is a special meeting, written or
11 printed notice setting forth the proposed amendment or
12 summary thereof shall be given to each stockholder of
13 record entitled to vote at such meeting at least 30 days
14 before such meeting and in the manner provided in this
15 Act for the giving of notice of meetings of stockholders.

16 (3) At such special meeting, a vote of the
17 stockholders entitled to vote shall be taken on the
18 proposed amendment. Except as provided in paragraph (7)
19 of this subsection (b), the proposed amendment shall be
20 adopted upon receiving the affirmative vote of the
21 holders of at least two-thirds of the outstanding shares
22 of stock entitled to vote at such meeting, unless holders
23 of preferred stock are entitled to vote as a class in
24 respect thereof, in which event the proposed amendment
25 shall be adopted upon receiving the affirmative vote of
26 the holders of at least two-thirds of the outstanding
27 shares of each class of shares entitled to vote as a
28 class in respect thereof and of the total outstanding
29 shares entitled to vote at such meeting. Any number of
30 amendments may be submitted to the stockholders and voted
31 upon by them at one meeting. A certificate of the
32 amendment, or amendments, verified by the president, or a
33 vice-president, or the cashier, shall be filed
34 immediately in the office of the Commissioner.

1 (4) At any annual meeting without a resolution of
2 the board of directors and without a notice and prior
3 publication, as hereinabove provided, a proposition for a
4 change in the bank's charter as provided for in this
5 Section 17 may be submitted to a vote of the stockholders
6 entitled to vote at the annual meeting, except that no
7 proposition for authorized but unissued capital stock
8 reserved for issuance for one or more of the purposes
9 provided for in subsection (5) of Section 14 hereof shall
10 be submitted without complying with the provisions of
11 said subsection. The proposed amendment shall be adopted
12 upon receiving the affirmative vote of the holders of at
13 least two-thirds of the outstanding shares of stock
14 entitled to vote at such meeting, unless holders of
15 preferred stock are entitled to vote as a class in
16 respect thereof, in which event the proposed amendment
17 shall be adopted upon receiving the affirmative vote of
18 the holders of at least two-thirds of the outstanding
19 shares of each class of shares entitled to vote as a
20 class in respect thereof and the total outstanding shares
21 entitled to vote at such meeting. A certificate of the
22 amendment, or amendments, verified by the president, or a
23 vice-president or cashier, shall be filed immediately in
24 the office of the Commissioner.

25 (5) If an amendment or amendments shall be approved
26 in writing by the Commissioner, the amendment or
27 amendments so adopted and so approved shall be
28 accomplished in accordance with the vote of the
29 stockholders. The Commissioner may impose such terms and
30 conditions on the approval of the amendment or amendments
31 as he deems necessary or appropriate. The Commissioner
32 shall revoke such approval in the event such amendment or
33 amendments are not effected within one year from the date
34 of the issuance of the Commissioner's certificate and

1 written approval except for transactions permitted under
2 subsection (5) of Section 14 of this Act.

3 (6) No amendment or amendments shall affect suits
4 in which the bank is a party, nor affect causes of
5 action, nor affect rights of persons in any particular,
6 nor shall actions brought against such bank by its former
7 name be abated by a change of name.

8 (7) A proposal to amend the charter to eliminate
9 cumulative voting rights under all or specified
10 circumstances, or to eliminate voting rights entirely, as
11 to any class or classes or series or stock of a bank,
12 pursuant to paragraph (3) of Section 15 and paragraph (7)
13 of subsection (a) of this Section 17, shall be adopted
14 only upon such proposal receiving the approval of the
15 holders of 70% of the outstanding shares of stock
16 entitled to vote at the meeting where the proposal is
17 presented for approval, unless holders of preferred stock
18 are entitled to vote as a class in respect thereof, in
19 which event the proposed amendment shall be adopted upon
20 receiving the approval of the holders of 70% of the
21 outstanding shares of each class of shares entitled to
22 vote as a class in respect thereof and of the total
23 outstanding shares entitled to vote at the meeting where
24 the proposal is presented for approval. The proposal to
25 amend the charter pursuant to this paragraph (7) may be
26 voted upon at the annual meeting or a special meeting.

27 (8) Written or printed notice of a stockholders'
28 meeting to vote on a proposal to increase, decrease or
29 change the capital stock or preferred stock pursuant to
30 paragraph (8) of subsection (a) of this Section 17 and to
31 eliminate fractional shares or avoid the issuance of
32 fractional shares shall be given to each stockholder of
33 record entitled to vote at the meeting at least 30 days
34 before the meeting and in the manner provided in this Act

1 for the giving of notice of meetings of stockholders, and
2 shall include all of the following information:

3 (A) A statement of the purpose of the proposed
4 reverse stock split.

5 (B) A statement of the amount of consideration
6 being offered for the bank's stock.

7 (C) A statement that the bank considers the
8 transaction fair to the stockholders, and a
9 statement of the material facts upon which this
10 belief is based.

11 (D) A statement that the bank has secured an
12 opinion from a third party with respect to the
13 fairness, from a financial point of view, of the
14 consideration to be paid, the identity and
15 qualifications of the third party, how the third
16 party was selected, and any material relationship
17 between the third party and the bank.

18 (E) A summary of the opinion including the
19 basis for and the methods of arriving at the
20 findings and any limitation imposed by the bank in
21 arriving at fair value and a statement making the
22 opinion available for reviewing or copying by any
23 stockholder.

24 (F) A statement that objecting stockholders
25 will be entitled to the fair value of those shares
26 that are voted against the charter amendment, if a
27 proper demand is made on the bank and the
28 requirements are satisfied as specified in this
29 Section.

30 If a stockholder shall file with the bank, prior to or at the
31 meeting of stockholders at which the proposed charter
32 amendment is submitted to a vote, a written objection to the
33 proposed charter amendment and shall not vote in favor
34 thereof, and if the stockholder, within 20 days after

1 receiving written notice of the date the charter amendment
2 was accomplished pursuant to paragraph (5) of subsection (a)
3 of this Section 17, shall make written demand on the bank for
4 payment of the fair value of the stockholder's shares as of
5 the day prior to the date on which the vote was taken
6 approving the charter amendment, the bank shall pay to the
7 stockholder, upon surrender of the certificate or
8 certificates representing the stock, the fair value thereof.
9 The demand shall state the number of shares owned by the
10 objecting stockholder. The bank shall provide written notice
11 of the date on which the charter amendment was accomplished
12 to all stockholders who have filed written objections in
13 order that the objecting stockholders may know when they must
14 file written demand if they choose to do so. Any stockholder
15 failing to make demand within the 20-day period shall be
16 conclusively presumed to have consented to the charter
17 amendment and shall be bound by the terms thereof. If within
18 30 days after the date on which a charter amendment was
19 accomplished the value of the shares is agreed upon between
20 the objecting stockholders and the bank, payment therefor
21 shall be made within 90 days after the date on which the
22 charter amendment was accomplished, upon the surrender of the
23 stockholder's certificate or certificates representing the
24 shares. Upon payment of the agreed value the objecting
25 stockholder shall cease to have any interest in the shares or
26 in the bank. If within such period of 30 days the
27 stockholder and the bank do not so agree, then the objecting
28 stockholder may, within 60 days after the expiration of the
29 30-day period, file a complaint in the circuit court asking
30 for a finding and determination of the fair value of the
31 shares, and shall be entitled to judgment against the bank
32 for the amount of the fair value as of the day prior to the
33 date on which the vote was taken approving the charter
34 amendment with interest thereon to the date of the judgment.

1 The practice, procedure and judgment shall be governed by the
 2 Civil Practice Law. The judgment shall be payable only upon
 3 and simultaneously with the surrender to the bank of the
 4 certificate or certificates representing the shares. Upon
 5 payment of the judgment, the objecting stockholder shall
 6 cease to have any interest in the shares or the bank. The
 7 shares may be held and disposed of by the bank. Unless the
 8 objecting stockholder shall file such complaint within the
 9 time herein limited, the stockholder and all persons claiming
 10 under the stockholder shall be conclusively presumed to have
 11 approved and ratified the charter amendment, and shall be
 12 bound by the terms thereof. The right of an objecting
 13 stockholder to be paid the fair value of the stockholder's
 14 shares of stock as herein provided shall cease if and when
 15 the bank shall abandon the charter amendment.

16 (c) The purchase and holding and later resale of
 17 treasury stock of a state bank pursuant to the provisions of
 18 subsection (6) of Section 14 may be accomplished without a
 19 change in its charter reflecting any decrease or increase in
 20 capital stock.

21 (Source: P.A. 90-160, eff. 7-23-97; 90-301, eff. 8-1-97;
 22 90-655, eff. 7-30-98; 91-322, eff. 1-1-00.)

23 (205 ILCS 5/18) (from Ch. 17, par. 325)

24 Sec. 18. Change in control.

25 (a) Before a change may occur in the ownership of
 26 outstanding stock of any State bank, whether by sale and
 27 purchase, gift, bequest or inheritance, or any other means,
 28 including the acquisition of stock of the State bank by any
 29 bank holding company, which will result in control or a
 30 change in the control of the bank or before a change in the
 31 control of a holding company having control of the
 32 outstanding stock of a State bank whether by sale and
 33 purchase, gift, bequest or inheritance, or any other means,

1 including the acquisition of stock of such holding company by
2 any other bank holding company, which will result in control
3 or a change in control of the bank or holding company, or
4 before a transfer of substantially all the assets or
5 liabilities of the State bank, the Commissioner shall be of
6 the opinion and find:

7 (1) that the general character of its proposed
8 management or of the person desiring to purchase
9 substantially all the assets or to assume substantially
10 all the liabilities of the State bank, after the change
11 in control, is such as to assure reasonable promise of
12 successful, safe and sound operation;

13 (1.1) that depositors' interests will not be
14 jeopardized by the purchase or assumption and that
15 adequate provision has been made for all liabilities as
16 required for a voluntary liquidation under Section 68 of
17 this Act;

18 (2) that the future earnings prospects of the
19 person desiring to purchase substantially all assets or
20 to assume substantially all the liabilities of the State
21 bank, after the proposed change in control, are
22 favorable;

23 (3) that any prior involvement by the persons
24 proposing to obtain control, to purchase substantially
25 all the assets, or to assume substantially all the
26 liabilities of the State bank or by the proposed
27 management personnel with any other financial
28 institution, whether as stockholder, director, officer or
29 customer, was conducted in a safe and sound manner; and

30 (4) that if the acquisition is being made by a bank
31 holding company, the acquisition is authorized under the
32 Illinois Bank Holding Company Act of 1957.

33 (b) Persons desiring to purchase control of an existing
34 state bank, to purchase substantially all the assets, or to

1 assume substantially all the liabilities of the State bank
2 shall, prior to that purchase, submit to the Commissioner:

- 3 (1) a statement of financial worth;
- 4 (2) satisfactory evidence that any prior
5 involvement by the persons and the proposed management
6 personnel with any other financial institution, whether
7 as stockholder, director, officer or customer, was
8 conducted in a safe and sound manner; and
- 9 (3) such other relevant information as the
10 Commissioner may request to substantiate the findings
11 under subsection (a) of this Section.

12 A person who has submitted information to the
13 Commissioner pursuant to this subsection (b) is under a
14 continuing obligation until the Commissioner takes action on
15 the application to immediately supplement that information if
16 there are any material changes in the information previously
17 furnished or if there are any material changes in any
18 circumstances that may affect the Commissioner's opinion and
19 findings. In addition, a person submitting information under
20 this subsection shall notify the Commissioner of the date
21 when the change in control is finally effected.

22 The Commissioner may impose such terms and conditions on
23 the approval of the change in control application as he deems
24 necessary or appropriate.

25 If an applicant, whose application for a change in
26 control has been approved pursuant to subsection (a) of this
27 Section, fails to effect the change in control within 180
28 days after the date of the Commissioner's approval, the
29 Commissioner shall revoke that approval unless a request has
30 been submitted, in writing, to the Commissioner for an
31 extension and the request has been approved.

32 ~~As--used--in--this--Section, the term "control" means the~~
33 ~~ownership of such amount of stock or ability to direct the~~
34 ~~voting of such stock as to give power to, directly or~~

1 indirectly, direct or cause the direction of the management
 2 or policies of the bank. A change in ownership of stock
 3 which would result in direct or indirect ownership by a
 4 stockholder, an affiliated group of stockholders or a holding
 5 company of less than 10 percent of the outstanding stock
 6 shall not be considered a change of control. A change in
 7 ownership of stock which would result in direct or indirect
 8 ownership by a stockholder, an affiliated group of
 9 stockholders or a holding company of 20 percent or such
 10 lesser amount which would entitle the holder by applying
 11 cumulative voting to elect one director shall be presumed to
 12 constitute a change of control for purposes of this Section
 13 18. If there is any doubt as to whether a change in the
 14 ownership or control of the outstanding stock is sufficient
 15 to result in obtaining control thereof or to effect a change
 16 in the control thereof, such doubt shall be resolved in favor
 17 of reporting the facts to the Commissioner.

18 As used in this Section, "substantially all" the assets
 19 or liabilities of a State bank means that portion of the
 20 assets or liabilities of a State bank such that their
 21 purchase or transfer will materially impair the ability of
 22 the State bank to continue successful, safe, and sound
 23 operations or to continue as a going concern or would cause
 24 the bank to lose its federal deposit insurance.

25 (b-1) Any person who obtains ownership of stock of an
 26 existing State bank or stock of a holding company that
 27 controls the State bank by gift, bequest, or inheritance such
 28 that ownership of the stock would constitute control of the
 29 State bank or holding company may obtain title and ownership
 30 of the stock, but may not exercise management or control of
 31 the business and affairs of the bank or vote his or her
 32 shares so as to exercise management or control unless and
 33 until the Commissioner approves an application for the change
 34 of control as provided in subsection (b) of this Section.

1 (c) Whenever a state bank makes a loan or loans,
2 secured, or to be secured, by 25% or more of the outstanding
3 stock of a state bank, the president or other chief executive
4 officer of the lending bank shall promptly report such fact
5 to the Commissioner upon obtaining knowledge of such loan or
6 loans, except that no report need be made in those cases
7 where the borrower has been the owner of record of the stock
8 for a period of one year or more, or the stock is that of a
9 newly organized bank prior to its opening.

10 (d) The reports required by subsections (b) and (c) of
11 this Section 18, other than those relating to a transfer of
12 assets or assumption of liabilities, shall contain the
13 following information to the extent that it is known by the
14 person making the report: (1) the number of shares involved;
15 (2) the names of the sellers (or transferors); (3) the names
16 of the purchasers (or transferees); (4) the names of the
17 beneficial owners if the shares are registered in another
18 name: (5) the purchase price, if applicable; (6) the total
19 number of shares owned by the sellers (or transferors), the
20 purchasers (or transferees) and the beneficial owners both
21 immediately before and after the transaction; and, (7) in the
22 case of a loan, the name of the borrower, the amount of the
23 loan, the name of the bank issuing the stock securing the
24 loan and the number of shares securing the loan. In addition
25 to the foregoing, such reports shall contain such other
26 information which is requested by the Commissioner to inform
27 the Commissioner of the effect of the transaction upon
28 control of the bank whose stock is involved.

29 (d-1) The reports required by subsection (b) of this
30 Section 18 that relate to purchase of assets and assumption
31 of liabilities shall contain the following information to the
32 extent that it is known by the person making the report: (1)
33 the value, amount, and description of the assets transferred;
34 (2) the amount, type, and to whom each type of liabilities

1 are owed; (3) the names of the purchasers (or transferees);
2 (4) the names of the beneficial owners if the shares of a
3 purchaser or transferee are registered in another name; (5)
4 the purchase price, if applicable; and, (6) in the case of a
5 loan obtained to effect a purchase, the name of the borrower,
6 the amount and terms of the loan, and the description of the
7 assets securing the loan. In addition to the foregoing,
8 these reports shall contain any other information that is
9 requested by the Commissioner to inform the Commissioner of
10 the effect of the transaction upon the bank from which assets
11 are purchased or liabilities are transferred.

12 (e) Whenever such a change as described in subsection
13 (a) of this Section 18 occurs, each state bank shall report
14 promptly to the Commissioner any changes or replacement of
15 its chief executive officer or of any director occurring in
16 the next 12 month period, including in its report a statement
17 of the past and current business and professional
18 affiliations of the new chief executive officer or directors.

19 (f) (Blank).

20 (g) (1) Except as otherwise expressly provided in this
21 subsection (g), the Commissioners shall not approve an
22 application for a change in control if upon consummation
23 of the change in control the persons applying for the
24 change in control, including any affiliates of the
25 persons applying, would control 30% or more of the total
26 amount of deposits which are located in this State at
27 insured depository institutions. For purposes of this
28 subsection (g), the words "insured depository
29 institution" shall mean State banks, national banks, and
30 insured savings associations. For purposes of this
31 subsection (g), the word "deposits" shall have the
32 meaning ascribed to that word in Section 3(1) of the
33 Federal Deposit Insurance Act. For purposes of this
34 subsection (g), the total amount of deposits which are

1 considered to be located in this State at insured
2 depository institutions shall equal the sum of all
3 deposits held at the main banking premises and branches
4 in the State of Illinois of State banks, national banks,
5 or insured savings associations. For purposes of this
6 subsection (g), the word "affiliates" shall have the
7 meaning ascribed to that word in Section 35.2 of this
8 Act.

9 (2) Notwithstanding the provisions of subsection
10 (g)(1) of this Section, the Commissioner may approve an
11 application for a change in control for a bank that is in
12 default or in danger of default. Except in those
13 instances in which an application for a change in control
14 is for a bank that is in default or in danger of default,
15 the Commissioner may not approve a change in control
16 which does not meet the requirements of subsection (g)(1)
17 of this Section. The Commissioner may not waive the
18 provisions of subsection (g)(1) of this Section, whether
19 pursuant to Section 3(d) of the federal Bank Holding
20 Company Act of 1956 or Section 44(d) of the Federal
21 Deposit Insurance Act, except as expressly provided in
22 this subsection (g)(2).

23 (h) As used in this Section, the term "control" means
24 the ownership of such amount of stock or ability to direct
25 the voting of such stock as to, directly or indirectly, give
26 power to direct or cause the direction of the management or
27 policies of the bank. A change in ownership of stock that
28 would result in direct or indirect ownership by a
29 stockholder, an affiliated group of stockholders, or a
30 holding company of less than 10% of the outstanding stock
31 shall not be considered a change in control. A change in
32 ownership of stock that would result in direct or indirect
33 ownership by a stockholder, an affiliated group of
34 stockholders, or a holding company of 20% or such lesser

1 amount that would entitle the holder by applying cumulative
 2 voting to elect one director shall be presumed to constitute
 3 a change of control for purposes of this Section 18. If
 4 there is any question as to whether a change in the ownership
 5 or control of the outstanding stock is sufficient to result
 6 in obtaining control thereof or to effect a change in the
 7 control thereof, the question shall be resolved in favor of
 8 reporting the facts to the Commissioner.

9 As used in this Section, "substantially all" the assets
 10 or liabilities of a State bank means that portion of the
 11 assets or liabilities of a State bank such that their
 12 purchase or transfer will materially impair the ability of
 13 the State bank to continue successful, safe, and sound
 14 operations or to continue as a going concern or would cause
 15 the bank to lose its federal deposit insurance.

16 As used in this Section, "purchase" includes a transfer
 17 by gift, bequest, inheritance, or any other means.

18 (Source: P.A. 89-567, eff. 7-26-96; 90-226, eff. 7-25-97.)

19 (205 ILCS 5/22) (from Ch. 17, par. 329)

20 Sec. 22. Merger procedure; resulting State bank. The
 21 merger procedure required of a State bank where there is to
 22 be a resulting State bank by consolidation or merger shall
 23 be:

24 (1) The board of directors of each merging bank or
 25 insured savings association shall, by a majority of the
 26 entire board, approve a merger agreement that shall contain:

27 (a) The name of each merging bank or insured
 28 savings association and its location and a list of each
 29 merging bank's or insured savings association's
 30 stockholders as of the date of the merger agreement;

31 (b) With respect to the resulting bank (i) its name
 32 and place of business; (ii) the amount of Tier 1 capital,
 33 ~~surplus-and-reserve-for--operating--expenses;~~ (iii) the

1 classes and the number of shares of stock and the par
2 value of each share; (iv) the designation of the
3 continuing bank and the charter which is to be the
4 charter of the resulting bank, together with the
5 amendments to the continuing charter and to the
6 continuing by-laws; and (v) a detailed financial
7 Statement showing the assets and liabilities after the
8 proposed merger or consolidation;

9 (c) Provisions stating the method, terms and
10 conditions of carrying the merger into effect, including
11 the manner of converting the shares of the merging banks
12 or insured savings association into the cash, shares of
13 stock or other securities of any corporation or other
14 property, or any combination of the foregoing, Stated in
15 the merger agreement as to be received by the
16 stockholders of each merging bank or insured savings
17 association;

18 (d) A Statement that the agreement is subject to
19 approval by the Commissioner and by the stockholders of
20 each merging bank or insured savings association and that
21 whether approved or disapproved the merging banks or
22 insured savings association will pay the Commissioner's
23 expenses of examination;

24 (e) Provisions governing the manner of disposing of
25 the shares of the resulting bank not taken by the
26 dissenting stockholders of the merging banks or insured
27 savings association; and

28 (f) Such other provisions as the Commissioner may
29 reasonably require to enable him to discharge his duties
30 with respect to the merger.

31 (2) After approval by the board of directors of each
32 bank or insured savings association, the merger agreement
33 shall be submitted to the Commissioner for approval, together
34 with certified copies of the authorizing resolutions of each

1 board of directors showing approval by a majority of the
2 entire board of each bank or insured savings association.

3 (3) After receipt by the Commissioner of the papers
4 specified in paragraph (2), he shall approve or disapprove
5 the merger agreement. The Commissioner shall not approve the
6 merger agreement unless he shall be of the opinion and shall
7 find:

8 (a) That the resulting bank meets the requirements
9 of this Act for the formation of a new bank at the
10 proposed main banking premises of the resulting bank;

11 (b) That the same matters exist with respect to the
12 resulting bank which would have been required under
13 Section 10 of this Act for the organization of a new
14 bank;

15 (c) That the merger agreement is fair to all
16 persons affected; and

17 (d) That the resulting bank will be operated in a
18 safe and sound manner.

19 If the Commissioner disapproves an agreement he shall
20 State his objections and give an opportunity to the merging
21 banks to amend the merger agreement to obviate such
22 objections.

23 (4) The Commissioner may impose such terms and
24 conditions on the approval of the merger agreement as he
25 deems necessary or appropriate.

26 (5) If the Commissioner approves a merger agreement, he
27 may revoke that approval if the merger has not been approved
28 by the shareholders in accordance with Section 23 within 180
29 days after the date of the Commissioner's approval, unless a
30 request has been submitted, in writing, to the Commissioner
31 for an extension and the request has been approved.

32 (6) The board of directors of a bank or insured savings
33 association is under a continuing obligation until the
34 Commissioner takes action on the application to furnish

1 additional information if there are any material changes in
2 circumstances after the merger agreement has been submitted
3 which may affect the Commissioner's opinions and findings.

4 (Source: P.A. 87-1226.)

5 (205 ILCS 5/25) (from Ch. 17, par. 332)

6 Sec. 25. Conversion of national bank or insured savings
7 association into State bank. A national bank or insured
8 savings association located in this State which follows the
9 procedure prescribed by the laws of the United States or of
10 the State of Illinois to convert into a State bank may be
11 granted a charter by the Commissioner. The national bank or
12 insured savings association may apply for such charter by
13 filing with the Commissioner:

14 (1) A certificate signed by its president, or a
15 vice-president, or the cashier, and by a majority of the
16 entire board of directors setting forth the corporate action
17 taken in compliance with the provisions of the laws of the
18 United States or of the State of Illinois governing the
19 conversion of a national bank or insured savings association
20 to a State bank;

21 (2) The plan of conversion and the proposed charter
22 approved by the stockholders for the operation of the bank or
23 insured savings association as a State bank;

24 (3) The name proposed for the converting bank or insured
25 savings association, its location and a list of its
26 stockholders as of the date of the stockholders' approval of
27 the plan of conversion;

28 (4) The amount of its Tier 1 capital, ~~surplus and~~
29 ~~reserve for operation expenses~~, the classes and the number of
30 the shares of stock and the par value of each share, and a
31 detailed statement showing the assets and liabilities of the
32 converting bank or insured savings association; and

33 (5) A statement that the plan of conversion is subject

1 to the approval of the Commissioner and that whether approved
2 or disapproved the converting bank or insured savings
3 association will pay the Commissioner's expenses of
4 examination.

5 For purposes of this Section, a national bank or insured
6 savings association is located in the State where its main
7 banking premises or main office is located.

8 (Source: P.A. 89-567, eff. 7-26-96.)

9 (205 ILCS 5/30.5)

10 Sec. 30.5. Mid-tier bank holding company merger with
11 State bank. Upon approval by the Commissioner, a mid-tier
12 bank holding company having power so to do under the law
13 under which it is organized may merge into its subsidiary
14 State bank as prescribed by this Act; except that the action
15 by the mid-tier bank holding company shall be taken in the
16 manner prescribed by and shall be subject to limitations and
17 requirements imposed by the law under which it is organized.
18 The merger procedure shall be as follows:

19 (1) The board of directors of the parent bank holding
20 company shall, by resolution, approve a merger agreement
21 which shall contain:

22 (a) the name and location of the merging bank and
23 of the mid-tier bank holding company;

24 (b) with respect to the merging bank (i) the amount
25 of Tier 1 capital, surplus, and reserve for operating
26 expenses; (ii) the classes and the number of shares of
27 stock and the par value of each share; (iii) a detailed
28 financial statement showing the assets and liabilities
29 after the proposed merger; and (iv) any amendments to the
30 charter or by-laws;

31 (c) provisions governing the manner of converting
32 the shares of the merging bank and the mid-tier bank
33 holding company into shares of the merging bank and the

1 manner of transferring the converted shares to the parent
2 bank holding company;

3 (d) a statement that the merger agreement is
4 subject to approval by the Commissioner and that whether
5 approved or disapproved, the parties thereto will pay the
6 Commissioner's expenses of examination; and

7 (e) such other provisions as the Commissioner may
8 reasonably require to enable him to discharge his duties
9 with respect to the merger.

10 (2) After approval by the board of directors of the
11 parent bank holding company, the merger agreement shall be
12 submitted to the Commissioner for approval.

13 (3) After receipt by the Commissioner of the papers
14 specified in item (2), he shall approve or disapprove the
15 merger agreement. The Commissioner shall not approve the
16 agreement unless he shall be of the opinion and finds that
17 the same matters exist in respect of the continuing bank
18 which would have been required under Section 10 of this Act
19 for the organization of a new bank, that the mid-tier bank
20 holding company has no known liabilities that will become
21 liabilities of the continuing bank, and that the parent bank
22 holding company will indemnify the continuing bank for any
23 known and unknown contingent liabilities for which the
24 continuing bank may become liable as a result of the merger.

25 Nothing in this Section shall authorize a resulting State
26 bank to acquire, hold, or invest any asset or to assume or
27 incur any liability that does not conform to the legal
28 requirements for assets acquired, held, or invested or
29 liabilities assumed or incurred by State banks, or to engage
30 in any activity in which a State bank is not authorized to
31 engage as part of a general banking business. If the
32 Commissioner disapproves the merger agreement, he shall state
33 his objections in writing and give an opportunity to the
34 merging bank and mid-tier bank holding company to obviate the

1 objections.

2 (4) To be effective, if approved by the Commissioner, a
3 copy of the merger agreement executed by the duly authorized
4 president of the mid-tier bank holding company and president
5 of the merging State bank, together with copies of the
6 resolution of the board of directors of the parent bank
7 holding company, approving the merger agreement, certified by
8 the parent bank holding company's president or vice-president
9 and attested by the secretary, must be filed with the
10 Commissioner. The merger shall, unless a later date is
11 specified in the agreement, become effective when the
12 Commissioner has approved the agreement and issued a
13 certificate of merger to the continuing bank, which shall
14 specify the name of the mid-tier bank holding company, the
15 name of the continuing bank, and the amendments to the
16 charter of the continuing bank provided for by the merger
17 agreement. The charter of the mid-tier bank holding company
18 shall thereupon automatically terminate. Such certificate
19 shall be conclusive evidence of the merger and of the
20 correctness of all proceedings therefor in all courts and
21 places including the office of the Secretary of State, and
22 the certificate shall be recorded.

23 (Source: P.A. 89-364, eff. 8-18-95.)

24 (205 ILCS 5/31) (from Ch. 17, par. 338)

25 Sec. 31. Emergency sale of assets, change in control, or
26 merger.

27 (a) With the prior written approval of the Commissioner,
28 any State bank in danger of default may, by vote of a
29 majority of its board of directors, and without a vote of its
30 shareholders, and any State bank in default may, by
31 appropriate action of its receiver or conservator, and
32 without a vote of its shareholders, sell all or any part of
33 its assets to another State bank that is not an eligible

1 depository institution, to a national bank that is not an
2 eligible depository institution, to an insured savings
3 association that is not an eligible depository institution,
4 to the Federal Deposit Insurance Corporation, or to any one
5 or more of them, provided that a State bank that is not an
6 eligible depository institution, a national bank that is not
7 an eligible depository institution, an insured savings
8 association that is not an eligible depository institution,
9 the Federal Deposit Insurance Corporation, or any one or more
10 of them assumes in writing all of the liabilities of the
11 selling bank as shown by its records, other than the
12 liabilities of the selling bank to its shareholders as such.

13 (b) If the Commissioner has made one or more of the
14 findings provided in Section 51, and the finding that an
15 emergency exists as provided in Section 52, and if, in
16 addition, the Commissioner gives his approval in writing, any
17 State bank may, by vote of a majority of its board of
18 directors and without a vote of its shareholders, merge with
19 another State bank that is not an eligible depository
20 institution, a national bank that is not an eligible
21 depository institution, or an insured savings association
22 located in Illinois that is not an eligible depository
23 institution, and after May 31, 1997, an out-of-state bank
24 that is not an eligible depository institution, with such
25 other State bank, out-of-state bank, national bank, or
26 insured savings association being the resulting or continuing
27 bank or resulting insured savings association in such a
28 merger.

29 (c) With the prior written approval of the Commissioner,
30 any State bank may either purchase, assume, or both purchase
31 and assume all or any part of the assets or liabilities, or
32 act as paying agent for the payment of deposit insurance to
33 the depositors of an eligible depository institution.

34 (d) With the prior written approval of the Commissioner,

1 a State bank may, by vote of a majority of its board of
2 directors and without a vote of its shareholders, merge with
3 an insured savings association, national bank, or after May
4 31, 1997, out-of-state bank, in default or in danger of
5 default, provided such State bank results from such merger,
6 and provided further that such resulting bank shall conform
7 all assets acquired or liabilities incurred as a result of
8 such merger to the legal requirements for such assets
9 acquired, held or invested or liabilities assumed or incurred
10 by State banks, and that such resulting or continuing bank
11 shall conform all of its activities to those activities in
12 which a State bank is authorized to engage as part of a
13 general banking business.

14 (d-5) If the Commissioner has made one or more of the
15 findings provided in Section 51 or the finding that an
16 emergency exists as provided in Section 52, and if, in
17 addition, the Commissioner gives his approval in writing, a
18 change in the ownership of outstanding stock of any State
19 bank, including the acquisition of stock of the State bank by
20 any bank holding company, may occur that will result in
21 control or a change in the control of the State bank or a
22 change in the control of a holding company having control of
23 the outstanding stock of a State bank, including the
24 acquisition of stock of such holding company by any other
25 bank holding company, which will result in control or a
26 change in control of the bank or holding company.

27 (e) Nothing in this Section shall authorize a State bank
28 to acquire, hold, or invest any asset or to assume or incur
29 any liability that does not conform to the legal requirements
30 for assets acquired, held, or invested or liabilities assumed
31 or incurred by State banks, or to engage in any activity in
32 which a State bank is not authorized to engage as part of a
33 general banking business.

34 (f) Nothing in this Section shall authorize a bank

1 holding company to own or control, directly or indirectly, a
2 State bank or a national bank having its main banking
3 premises in Illinois unless such ownership or control is
4 expressly authorized under the provisions of the Illinois
5 Bank Holding Company Act of 1957.

6 (Source: P.A. 88-4; 89-208, eff. 9-29-95.)

7 (205 ILCS 5/33) (from Ch. 17, par. 341)

8 Sec. 33. Marketable investment securities limit. Any
9 State bank may purchase for its own account marketable
10 investment securities without regard to any other liability
11 to the bank of the issuer, maker, obligor, or guarantor of
12 any marketable investment securities, but the total amount of
13 the marketable investment securities of any one issuer, maker
14 or obligor held by the bank or for its account at any one
15 time shall not exceed 20% of its unimpaired capital and
16 unimpaired surplus. As used in this Section the term
17 "marketable investment securities" means marketable
18 obligations evidencing indebtedness of any person in the form
19 of bonds, notes, or debentures commonly known as investment
20 securities; obligations identified by certificates of
21 participation in investments the bank could have invested in
22 directly; and includes certificates of participation in open
23 end investment companies registered with the Securities and
24 Exchange Commission pursuant to the Investment Company Act of
25 1940 and Securities Act of 1933 commonly referred to as
26 mutual or money market funds, provided the portfolios of
27 those investment companies consist of investments that a bank
28 could invest in directly. Marketable investment securities
29 shall be rated in the top 4 rating categories by national
30 rating services and designated as "investment grade" or "bank
31 quality investments" securities. The rating restriction on
32 marketable investment securities does not apply to securities
33 that are issued by a public agency as defined in Section 1 of

1 the Public Funds Investment Act.

2 (Source: P.A. 88-546; 89-364, eff. 8-18-95.)

3 (205 ILCS 5/37) (from Ch. 17, par. 347)

4 Sec. 37. Loans to officers and loans on and purchases of
5 bank's own stock.

6 (1) No state bank shall make any loan or extension of
7 credit in excess of the limits, as determined by the
8 Commissioner, at any one time outstanding each to its
9 president, or to any of its vice presidents or its salaried
10 officers or employees or directors or to corporations or
11 firms, controlled by them, or in the management of which any
12 of them are actively engaged, unless such loan or extension
13 of credit shall have been first approved, by the board of
14 directors. The Commissioner shall prescribe such limits by
15 rules.

16 (2) It shall not be lawful for a state bank to make any
17 loan or discount on the security of the shares of its own
18 capital stock or preferred stock or on the security of its
19 own debentures or evidences of debt which are either
20 convertible into capital stock or are junior or subordinate
21 in right of payment to deposit or other liabilities of the
22 bank.

23 (3)(a) For purposes of this Section, "control" means (i)
24 ownership, control, or power to vote 25% or more of the
25 outstanding shares of any class of voting security of the
26 corporation or firm, directly or indirectly, or acting
27 through or in concert with one or more other persons; (ii)
28 control in any manner over the election of a majority of the
29 directors of the corporation or firm; or (iii) the power to
30 exercise a controlling influence over the management or
31 policies of the corporation or firm, directly or indirectly,
32 or acting through or in concert with one or more persons.

33 (3)(b) A person does not have the power to exercise a

1 controlling influence over the management or policies of a
2 corporation or firm solely by virtue of the person's position
3 as an officer or director of the corporation or firm.

4 (3)(c) A person is presumed to have control, including
5 the power to exercise a controlling influence over the
6 management or policies, of a corporation or firm if:

7 (i) the person:

8 (A) is an executive officer, director, or
9 individual exercising similar functions of the
10 corporation or firm; and

11 (B) directly or indirectly owns, controls, or
12 has the power to vote more than 10% of any class of
13 voting securities of the corporation or firm; or

14 (ii)(A) the person directly or indirectly owns,
15 controls, or has the power to vote more than 10% of any
16 class of voting securities of the corporation or firm;
17 and

18 (B) no other person directly or indirectly
19 owns, controls, or has the power to vote a greater
20 percentage of that class of voting securities.

21 (3)(d) A person may rebut a presumption established
22 under subdivision (3)(c) of this Section by submitting
23 written materials that, in the Commissioner's judgment,
24 demonstrate an absence of control.

25 (Source: P.A. 86-754.)

26 (205 ILCS 5/47) (from Ch. 17, par. 358)

27 Sec. 47. Reports to Commissioner.

28 (a) All State banks shall make a full and accurate
29 statement of their affairs at least 1 time during each
30 calendar quarter which shall be certified to, under oath by
31 the president, a vice-president or the cashier of such bank.
32 If the statement is submitted in electronic form, the
33 Commissioner may, in the call for the report, specify the

1 manner in which the appropriate officer of the bank shall
2 certify the statement of affairs. The statement shall be
3 according to the form which may be prescribed by the
4 Commissioner and shall exhibit in detail information
5 concerning such bank at the close of business of any day the
6 Commissioner may choose and designate in a call for such
7 report. Each bank shall deliver its quarterly statement to
8 the location specified by the Commissioner within 30 calendar
9 days of the date of the call for such reports. If the
10 quarterly statement is mailed, it must be postmarked within
11 the period prescribed for delivery, and if the quarterly
12 statement is delivered in electronic form, the bank shall
13 generate and retain satisfactory proof that it has caused the
14 report to be delivered within the period prescribed for
15 delivery. ~~Within--60--calendar--days--after--the--Commissioner's~~
16 ~~call--for--the--fourth--calendar--quarter--statement--of--affairs,--a~~
17 ~~State--bank--shall--publish--an--annual--disclosure--statement~~
18 ~~setting--forth--the--information--required--by--rule--of--the~~
19 ~~Commissioner.--The--disclosure--statement--shall--contain--the~~
20 ~~required--information--as--of--the--close--of--the--business--day~~
21 ~~designated--by--the--Commissioner--for--the--fourth--quarter~~
22 ~~statement--of--affairs.--Any--bank--failing--to--make--and--deliver~~
23 ~~such--statement--or--to--comply--with--any--provisions--of--this~~
24 ~~Section--may--be--subject--to--a--penalty--payable--to--the~~
25 ~~Commissioner--of--\$100--for--each--day--of--noncompliance.~~

26 (b) In addition to the foregoing reports, any bank which
27 is the victim of a shortage of funds in excess of \$10,000, an
28 apparent misapplication of the bank's funds by an officer,
29 employee or director, or any adverse legal action in an
30 amount in excess of 10% of total unimpaired capital and
31 unimpaired surplus of the bank, including but not limited to,
32 the entry of an adverse money judgment against the bank or a
33 write-off of assets of the bank, shall report that
34 information in writing to the Commissioner within 7 days of

1 the occurrence. Compliance with the time frames prescribed by
 2 the United States Department of Treasury's Financial Crimes
 3 Enforcement Network shall be deemed compliance with this
 4 Section. Neither the bank, its directors, officers, employees
 5 or its agents, in the preparation or filing of the reports
 6 required by subsection (b) of this Section, shall be subject
 7 to any liability for libel, slander, or other charges
 8 resulting from information supplied in such reports, except
 9 when the supplying of such information is done in a corrupt
 10 or malicious manner or otherwise not in good faith.
 11 (Source: P.A. 89-505, eff. 6-28-96; 89-567, eff. 7-26-96;
 12 90-14, eff. 7-1-97.)

13 (205 ILCS 5/48) (from Ch. 17, par. 359)

14 Sec. 48. Commissioner's powers; duties. The Commissioner
 15 shall have the powers and authority, and is charged with the
 16 duties and responsibilities designated in this Act, and a
 17 State bank shall not be subject to any other visitorial power
 18 other than as authorized by this Act, except those vested in
 19 the courts, or upon prior consultation with the Commissioner,
 20 a foreign bank regulator with an appropriate supervisory
 21 interest in the parent or affiliate of a state bank. In the
 22 performance of the Commissioner's duties:

23 (1) The Commissioner shall call for statements from all
 24 State banks as provided in Section 47 at least one time
 25 during each calendar quarter.

26 (2) (a) The Commissioner, as often as the Commissioner
 27 shall deem necessary or proper, and no less frequently than
 28 18 months following the preceding examination, shall appoint
 29 a suitable person or persons to make an examination of the
 30 affairs of every State bank, except that for every eligible
 31 State bank, as defined by regulation, the Commissioner in
 32 lieu of the examination may accept on an alternating basis
 33 the examination made by the eligible State bank's appropriate

1 federal banking agency pursuant to Section 111 of the Federal
2 Deposit Insurance Corporation Improvement Act of 1991,
3 provided the appropriate federal banking agency has made such
4 an examination. A person so appointed shall not be a
5 stockholder or officer or employee of any bank which that
6 person may be directed to examine, and shall have powers to
7 make a thorough examination into all the affairs of the bank
8 and in so doing to examine any of the officers or agents or
9 employees thereof on oath and shall make a full and detailed
10 report of the condition of the bank to the Commissioner. In
11 making the examination the examiners shall include an
12 examination of the affairs of all the affiliates of the bank,
13 as defined in subsection (b) of Section 35.2 of this Act, or
14 subsidiaries of the bank as shall be necessary to disclose
15 fully the conditions of the subsidiaries or affiliates, the
16 relations between the bank and the subsidiaries or affiliates
17 and the effect of those relations upon the affairs of the
18 bank, and in connection therewith shall have power to examine
19 any of the officers, directors, agents, or employees of the
20 subsidiaries or affiliates on oath. After May 31, 1997, the
21 Commissioner may enter into cooperative agreements with state
22 regulatory authorities of other states to provide for
23 examination of State bank branches in those states, and the
24 Commissioner may accept reports of examinations of State bank
25 branches from those state regulatory authorities. These
26 cooperative agreements may set forth the manner in which the
27 other state regulatory authorities may be compensated for
28 examinations prepared for and submitted to the Commissioner.

29 (b) After May 31, 1997, the Commissioner is authorized
30 to examine, as often as the Commissioner shall deem necessary
31 or proper, branches of out-of-state banks. The Commissioner
32 may establish and may assess fees to be paid to the
33 Commissioner for examinations under this subsection (b). The
34 fees shall be borne by the out-of-state bank, unless the fees

1 are borne by the state regulatory authority that chartered
2 the out-of-state bank, as determined by a cooperative
3 agreement between the Commissioner and the state regulatory
4 authority that chartered the out-of-state bank.

5 (2.5) Whenever any State bank, any subsidiary or
6 affiliate of a State bank, or after May 31, 1997, any branch
7 of an out-of-state bank causes to be performed, by contract
8 or otherwise, any bank services for itself, whether on or off
9 its premises:

10 (a) that performance shall be subject to
11 examination by the Commissioner to the same extent as if
12 services were being performed by the bank or, after May
13 31, 1997, branch of the out-of-state bank itself on its
14 own premises; and

15 (b) the bank or, after May 31, 1997, branch of the
16 out-of-state bank shall notify the Commissioner of the
17 existence of a service relationship. The notification
18 shall be submitted with the first statement of condition
19 (as required by Section 47 of this Act) due after the
20 making of the service contract or the performance of the
21 service, whichever occurs first. The Commissioner shall
22 be notified of each subsequent contract in the same
23 manner.

24 For purposes of this subsection (2.5), the term "bank
25 services" means services such as sorting and posting of
26 checks and deposits, computation and posting of interest and
27 other credits and charges, preparation and mailing of checks,
28 statements, notices, and similar items, or any other
29 clerical, bookkeeping, accounting, statistical, or similar
30 functions performed for a State bank, including but not
31 limited to electronic data processing related to those bank
32 services.

33 (3) The expense of administering this Act, including the
34 expense of the examinations of State banks as provided in

1 this Act, shall to the extent of the amounts resulting from
2 the fees provided for in paragraphs (a), (a-2), and (b) of
3 this subsection (3) be assessed against and borne by the
4 State banks:

5 (a) Each bank shall pay to the Commissioner a Call
6 Report Fee which shall be paid in quarterly installments
7 equal to one-fourth of the sum of the annual fixed fee of
8 \$800, plus a variable fee based on the assets shown on
9 the quarterly statement of condition delivered to the
10 Commissioner in accordance with Section 47 for the
11 preceding quarter according to the following schedule:
12 16¢ per \$1,000 of the first \$5,000,000 of total assets,
13 15¢ per \$1,000 of the next \$20,000,000 of total assets,
14 13¢ per \$1,000 of the next \$75,000,000 of total assets,
15 9¢ per \$1,000 of the next \$400,000,000 of total assets,
16 7¢ per \$1,000 of the next \$500,000,000 of total assets,
17 and 5¢ per \$1,000 of all assets in excess of
18 \$1,000,000,000, of the State bank. The Call Report Fee
19 shall be calculated by the Commissioner and billed to the
20 banks for remittance at the time of the quarterly
21 statements of condition provided for in Section 47. The
22 Commissioner may require payment of the fees provided in
23 this Section by an electronic transfer of funds or an
24 automatic debit of an account of each of the State banks.
25 In case more than one examination of any bank is deemed
26 by the Commissioner to be necessary in any examination
27 frequency cycle specified in subsection 2(a) of this
28 Section, and is performed at his direction, the
29 Commissioner may assess a reasonable additional fee to
30 recover the cost of the additional examination; provided,
31 however, that an examination conducted at the request of
32 the State Treasurer pursuant to the Uniform Disposition
33 of Unclaimed Property Act shall not be deemed to be an
34 additional examination under this Section. In lieu of the

1 method and amounts set forth in this paragraph (a) for
2 the calculation of the Call Report Fee, the Commissioner
3 may specify by rule that the Call Report Fees provided by
4 this Section may be assessed semiannually or some other
5 period and may provide in the rule the formula to be used
6 for calculating and assessing the periodic Call Report
7 Fees to be paid by State banks.

8 (a-1) If in the opinion of the Commissioner an
9 emergency exists or appears likely, the Commissioner may
10 assign an examiner or examiners to monitor the affairs of
11 a State bank with whatever frequency he deems
12 appropriate, including but not limited to a daily basis.
13 The reasonable and necessary expenses of the Commissioner
14 during the period of the monitoring shall be borne by the
15 subject bank. The Commissioner shall furnish the State
16 bank a statement of time and expenses if requested to do
17 so within 30 days of the conclusion of the monitoring
18 period.

19 (a-2) On and after January 1, 1990, the reasonable
20 and necessary expenses of the Commissioner during
21 examination of the performance of electronic data
22 processing services under subsection (2.5) shall be borne
23 by the banks for which the services are provided. An
24 amount, based upon a fee structure prescribed by the
25 Commissioner, shall be paid by the banks or, after May
26 31, 1997, branches of out-of-state banks receiving the
27 electronic data processing services along with the Call
28 Report Fee assessed under paragraph (a) of this
29 subsection (3).

30 (a-3) After May 31, 1997, the reasonable and
31 necessary expenses of the Commissioner during examination
32 of the performance of electronic data processing services
33 under subsection (2.5) at or on behalf of branches of
34 out-of-state banks shall be borne by the out-of-state

1 banks, unless those expenses are borne by the state
2 regulatory authorities that chartered the out-of-state
3 banks, as determined by cooperative agreements between
4 the Commissioner and the state regulatory authorities
5 that chartered the out-of-state banks.

6 (b) "Fiscal year" for purposes of this Section 48
7 is defined as a period beginning July 1 of any year and
8 ending June 30 of the next year. The Commissioner shall
9 receive for each fiscal year, commencing with the fiscal
10 year ending June 30, 1987, a contingent fee equal to the
11 lesser of the aggregate of the fees paid by all State
12 banks under paragraph (a) of subsection (3) for that
13 year, or the amount, if any, whereby the aggregate of the
14 administration expenses, as defined in paragraph (c), for
15 that fiscal year exceeds the sum of the aggregate of the
16 fees payable by all State banks for that year under
17 paragraph (a) of subsection (3), plus any amounts
18 transferred into the Bank and Trust Company Fund from the
19 State Pensions Fund for that year, plus all other amounts
20 collected by the Commissioner for that year under any
21 other provision of this Act, plus the aggregate of all
22 fees collected for that year by the Commissioner under
23 the Corporate Fiduciary Act, excluding the receivership
24 fees provided for in Section 5-10 of the Corporate
25 Fiduciary Act, and the Foreign Banking Office Act. The
26 aggregate amount of the contingent fee thus arrived at
27 for any fiscal year shall be apportioned amongst,
28 assessed upon, and paid by the State banks and foreign
29 banking corporations, respectively, in the same
30 proportion that the fee of each under paragraph (a) of
31 subsection (3), respectively, for that year bears to the
32 aggregate for that year of the fees collected under
33 paragraph (a) of subsection (3). The aggregate amount of
34 the contingent fee, and the portion thereof to be

1 assessed upon each State bank and foreign banking
2 corporation, respectively, shall be determined by the
3 Commissioner and shall be paid by each, respectively,
4 within 120 days of the close of the period for which the
5 contingent fee is computed and is payable, and the
6 Commissioner shall give 20 days advance notice of the
7 amount of the contingent fee payable by the State bank
8 and of the date fixed by the Commissioner for payment of
9 the fee.

10 (c) The "administration expenses" for any fiscal
11 year shall mean the ordinary and contingent expenses for
12 that year incident to making the examinations provided
13 for by, and for otherwise administering, this Act, the
14 Corporate Fiduciary Act, excluding the expenses paid from
15 the Corporate Fiduciary Receivership account in the Bank
16 and Trust Company Fund, the Foreign Banking Office Act,
17 the Electronic Fund Transfer Act, and the Illinois Bank
18 Examiners' Education Foundation Act, including all
19 salaries and other compensation paid for personal
20 services rendered for the State by officers or employees
21 of the State, including the Commissioner and the Deputy
22 Commissioners, all expenditures for telephone and
23 telegraph charges, postage and postal charges, office
24 stationery, supplies and services, and office furniture
25 and equipment, including typewriters and copying and
26 duplicating machines and filing equipment, surety bond
27 premiums, and travel expenses of those officers and
28 employees, employees, expenditures or charges for the
29 acquisition, enlargement or improvement of, or for the
30 use of, any office space, building, or structure, or
31 expenditures for the maintenance thereof or for
32 furnishing heat, light, or power with respect thereto,
33 all to the extent that those expenditures are directly
34 incidental to such examinations or administration. The

1 Commissioner shall not be required by paragraphs (c) or
2 (d-1) of this subsection (3) to maintain in any fiscal
3 year's budget appropriated reserves for accrued vacation
4 and accrued sick leave that is required to be paid to
5 employees of the Commissioner upon termination of their
6 service with the Commissioner in an amount that is more
7 than is reasonably anticipated to be necessary for any
8 anticipated turnover in employees, whether due to normal
9 attrition or due to layoffs, terminations, or
10 resignations.

11 (d) The aggregate of all fees collected by the
12 Commissioner under this Act, the Corporate Fiduciary Act,
13 or the Foreign Banking Office Act on and after July 1,
14 1979, shall be paid promptly after receipt of the same,
15 accompanied by a detailed statement thereof, into the
16 State treasury and shall be set apart in a special fund
17 to be known as the "Bank and Trust Company Fund", except
18 as provided in paragraph (c) of subsection (11) of this
19 Section. The amount from time to time deposited into the
20 Bank and Trust Company Fund shall be used to offset the
21 ordinary administrative expenses of the Commissioner of
22 Banks and Real Estate as defined in this Section. Nothing
23 in this amendatory Act of 1979 shall prevent continuing
24 the practice of paying expenses involving salaries,
25 retirement, social security, and State-paid insurance
26 premiums of State officers by appropriations from the
27 General Revenue Fund. However, the General Revenue Fund
28 shall be reimbursed for those payments made on and after
29 July 1, 1979, by an annual transfer of funds from the
30 Bank and Trust Company Fund.

31 (d-1) Adequate funds shall be available in the Bank
32 and Trust Company Fund to permit the timely payment of
33 administration expenses. In each fiscal year the total
34 administration expenses shall be deducted from the total

1 fees collected by the Commissioner and the remainder
2 transferred into the Cash Flow Reserve Account, unless
3 the balance of the Cash Flow Reserve Account prior to the
4 transfer equals or exceeds one-fourth of the total
5 initial appropriations from the Bank and Trust Company
6 Fund for the subsequent year, in which case the remainder
7 shall be credited to State banks and foreign banking
8 corporations and applied against their fees for the
9 subsequent year. The amount credited to each State bank
10 and foreign banking corporation shall be in the same
11 proportion as the Call Report Fees paid by each for the
12 year bear to the total Call Report Fees collected for the
13 year. If, after a transfer to the Cash Flow Reserve
14 Account is made or if no remainder is available for
15 transfer, the balance of the Cash Flow Reserve Account is
16 less than one-fourth of the total initial appropriations
17 for the subsequent year and the amount transferred is
18 less than 5% of the total Call Report Fees for the year,
19 additional amounts needed to make the transfer equal to
20 5% of the total Call Report Fees for the year shall be
21 apportioned amongst, assessed upon, and paid by the State
22 banks and foreign banking corporations in the same
23 proportion that the Call Report Fees of each,
24 respectively, for the year bear to the total Call Report
25 Fees collected for the year. The additional amounts
26 assessed shall be transferred into the Cash Flow Reserve
27 Account. For purposes of this paragraph (d-1), the
28 calculation of the fees collected by the Commissioner
29 shall exclude the receivership fees provided for in
30 Section 5-10 of the Corporate Fiduciary Act.

31 (e) The Commissioner may upon request certify to
32 any public record in his keeping and shall have authority
33 to levy a reasonable charge for issuing certifications of
34 any public record in his keeping.

1 (f) In addition to fees authorized elsewhere in
 2 this Act, the Commissioner may, in connection with a
 3 review, approval, or provision of a service, levy a
 4 reasonable charge to recover the cost of the review,
 5 approval, or service.

6 (4) Nothing contained in this Act shall be construed to
 7 limit the obligation relative to examinations and reports of
 8 any State bank, deposits in which are to any extent insured
 9 by the United States or any agency thereof, nor to limit in
 10 any way the powers of the Commissioner with reference to
 11 examinations and reports of that bank.

12 (5) The nature and condition of the assets in or
 13 investment of any bonus, pension, or profit sharing plan for
 14 officers or employees of every State bank or, after May 31,
 15 1997, branch of an out-of-state bank shall be deemed to be
 16 included in the affairs of that State bank or branch of an
 17 out-of-state bank subject to examination by the Commissioner
 18 under the provisions of subsection (2) of this Section, and
 19 if the Commissioner shall find from an examination that the
 20 condition of or operation of the investments or assets of the
 21 plan is unlawful, fraudulent, or unsafe, or that any trustee
 22 has abused his trust, the Commissioner shall, if the
 23 situation so found by the Commissioner shall not be corrected
 24 to his satisfaction within 60 days after the Commissioner has
 25 given notice to the board of directors of the State bank or
 26 out-of-state bank of his findings, report the facts to the
 27 Attorney General who shall thereupon institute proceedings
 28 against the State bank or out-of-state bank, the board of
 29 directors thereof, or the trustees under such plan as the
 30 nature of the case may require.

31 (6) The Commissioner shall have the power:

32 (a) To promulgate reasonable rules for the purpose
 33 of administering the provisions of this Act.

34 (a-5) To impose conditions on any approval issued

1 by the Commissioner if he determines that the conditions
 2 are necessary or appropriate. These conditions shall be
 3 imposed in writing and shall continue in effect for the
 4 period prescribed by the Commissioner.

5 (b) To issue orders against any person, if the
 6 Commissioner has reasonable cause to believe that an
 7 unsafe or unsound banking practice has occurred, is
 8 occurring, or is about to occur, if any person has
 9 violated, is violating, or is about to violate any law,
 10 rule, or written agreement with the Commissioner, or for
 11 the purpose of administering the provisions of this Act,
 12 and any rule promulgated in accordance with this Act.

13 (b-1) To enter into agreements with a bank
 14 establishing a program to correct the condition of the
 15 bank or its practices.

16 (c) To appoint hearing officers to execute any of
 17 the powers granted to the Commissioner under this Section
 18 for the purpose of administering this Act and any rule
 19 promulgated in accordance with this Act and otherwise to
 20 authorize, in writing, an officer or employee of the
 21 Office of Banks and Real Estate to exercise his powers
 22 under this Act.

23 (d) To subpoena witnesses, to compel their
 24 attendance, to administer an oath, to examine any person
 25 under oath, and to require the production of any relevant
 26 books, papers, accounts, and documents in the course of
 27 and pursuant to any investigation being conducted, or any
 28 action being taken, by the Commissioner in respect of any
 29 matter relating to the duties imposed upon, or the powers
 30 vested in, the Commissioner under the provisions of this
 31 Act or any rule promulgated in accordance with this Act.

32 (e) To conduct hearings.

33 (7) Whenever, in the opinion of the Commissioner, any
 34 director, officer, employee, or agent of a State bank or any

1 subsidiary or bank holding company of the bank or, after May
2 31, 1997, of any branch of an out-of-state bank or any
3 subsidiary or bank holding company of the bank shall have
4 violated any law, rule, or order relating to that bank or any
5 subsidiary or bank holding company of the bank, shall have
6 obstructed or impeded any examination or investigation by the
7 Commissioner, ~~er~~ shall have engaged in an unsafe or unsound
8 practice in conducting the business of that bank or any
9 subsidiary or bank holding company of the bank, or shall have
10 violated any law or engaged or participated in any unsafe or
11 unsound practice in connection with any financial institution
12 or other business entity such that the character and fitness
13 of the director, officer, employee, or agent does not assure
14 reasonable promise of safe and sound operation of the State
15 bank, the Commissioner may issue an order of removal. If, in
16 the opinion of the Commissioner, any former director,
17 officer, employee, or agent of a State bank or any subsidiary
18 or bank holding company of the bank, prior to the termination
19 of his or her service with that bank or any subsidiary or
20 bank holding company of the bank, violated any law, rule, or
21 order relating to that State bank or any subsidiary or bank
22 holding company of the bank, obstructed or impeded any
23 examination or investigation by the Commissioner, ~~er~~ engaged
24 in an unsafe or unsound practice in conducting the business
25 of that bank or any subsidiary or bank holding company of the
26 bank, or violated any law or engaged or participated in any
27 unsafe or unsound practice in connection with any financial
28 institution or other business entity such that the character
29 and fitness of the director, officer, employee, or agent
30 would not have assured reasonable promise of safe and sound
31 operation of the State bank, the Commissioner may issue an
32 order prohibiting that person from further service with a
33 bank or any subsidiary or bank holding company of the bank as
34 a director, officer, employee, or agent. An order issued

1 pursuant to this subsection shall be served upon the
2 director, officer, employee, or agent. A copy of the order
3 shall be sent to each director of the bank affected by
4 registered mail. The person affected by the action may
5 request a hearing before the State Banking Board within 10
6 days after receipt of the order of ~~removal~~. The hearing
7 shall be held by the Board within 30 days after the request
8 has been received by the Board. The Board shall make a
9 determination approving, modifying, or disapproving the order
10 of the Commissioner as its final administrative decision. If
11 a hearing is held by the Board, the Board shall make its
12 determination within 60 days from the conclusion of the
13 hearing. Any person affected by a decision of the Board under
14 this subsection (7) of Section 48 of this Act may have the
15 decision reviewed only under and in accordance with the
16 Administrative Review Law and the rules adopted pursuant
17 thereto. A copy of the order shall also be served upon the
18 bank of which he is a director, officer, employee, or agent,
19 whereupon he shall cease to be a director, officer, employee,
20 or agent of that bank. The Commissioner may institute a
21 civil action against the director, officer, or agent of the
22 State bank or, after May 31, 1997, of the branch of the
23 out-of-state bank against whom any order provided for by this
24 subsection (7) of this Section 48 has been issued, and
25 against the State bank or, after May 31, 1997, out-of-state
26 bank, to enforce compliance with or to enjoin any violation
27 of the terms of the order. Any person who has been the
28 subject of an order of removal or an order of prohibition
29 issued by the Commissioner under this subsection or Section
30 5-6 of the Corporate Fiduciary Act may not thereafter serve
31 as director, officer, employee, or agent of any State bank or
32 of any branch of any out-of-state bank, or of any corporate
33 fiduciary, as defined in Section 1-5.05 of the Corporate
34 Fiduciary Act, or of any other entity that is subject to

1 licensure or regulation by the Commissioner or the Office of
2 Banks and Real Estate unless the Commissioner has granted
3 prior approval in writing.

4 For purposes of this paragraph (7), "bank holding
5 company" has the meaning prescribed in Section 2 of the
6 Illinois Bank Holding Company Act of 1957.

7 (8) The Commissioner may impose civil penalties of up to
8 \$10,000 against any person for each violation of any
9 provision of this Act, any rule promulgated in accordance
10 with this Act, any order of the Commissioner, or any other
11 action which in the Commissioner's discretion is an unsafe or
12 unsound banking practice.

13 (9) The Commissioner may impose civil penalties of up to
14 \$100 against any person for the first failure to comply with
15 reporting requirements set forth in the report of examination
16 of the bank and up to \$200 for the second and subsequent
17 failures to comply with those reporting requirements.

18 (10) All final administrative decisions of the
19 Commissioner hereunder shall be subject to judicial review
20 pursuant to the provisions of the Administrative Review Law.
21 For matters involving administrative review, venue shall be
22 in either Sangamon County or Cook County.

23 (11) The endowment fund for the Illinois Bank Examiners'
24 Education Foundation shall be administered as follows:

25 (a) (Blank).

26 (b) The Foundation is empowered to receive
27 voluntary contributions, gifts, grants, bequests, and
28 donations on behalf of the Illinois Bank Examiners'
29 Education Foundation from national banks and other
30 persons for the purpose of funding the endowment of the
31 Illinois Bank Examiners' Education Foundation.

32 (c) The aggregate of all special educational fees
33 collected by the Commissioner and property received by
34 the Commissioner on behalf of the Illinois Bank

1 Examiners' Education Foundation under this subsection
 2 (11) on or after June 30, 1986, shall be either (i)
 3 promptly paid after receipt of the same, accompanied by a
 4 detailed statement thereof, into the State Treasury and
 5 shall be set apart in a special fund to be known as "The
 6 Illinois Bank Examiners' Education Fund" to be invested
 7 by either the Treasurer of the State of Illinois in the
 8 Public Treasurers' Investment Pool or in any other
 9 investment he is authorized to make or by the Illinois
 10 State Board of Investment as the board of trustees of the
 11 Illinois Bank Examiners' Education Foundation may direct
 12 or (ii) deposited into an account maintained in a
 13 commercial bank or corporate fiduciary in the name of the
 14 Illinois Bank Examiners' Education Foundation pursuant to
 15 the order and direction of the Board of Trustees of the
 16 Illinois Bank Examiners' Education Foundation.

17 (12) (Blank).

18 (Source: P.A. 90-14, eff. 7-1-97; 90-301, eff. 8-1-97;
 19 90-665, eff. 7-30-98; 91-16, eff. 7-1-99.)

20 (205 ILCS 5/48.1) (from Ch. 17, par. 360)

21 Sec. 48.1. Customer financial records; confidentiality.

22 (a) For the purpose of this Section, the term "financial
 23 records" means any original, any copy, or any summary of:

24 (1) a document granting signature authority over a
 25 deposit or account;

26 (2) a statement, ledger card or other record on any
 27 deposit or account, which shows each transaction in or
 28 with respect to that account;

29 (3) a check, draft or money order drawn on a bank
 30 or issued and payable by a bank; or

31 (4) any other item containing information
 32 pertaining to any relationship established in the
 33 ordinary course of a bank's business between a bank and

1 its customer, including financial statements or other
2 financial information provided by the customer.

3 (b) This Section does not prohibit:

4 (1) The preparation, examination, handling or
5 maintenance of any financial records by any officer,
6 employee or agent of a bank having custody of the
7 records, or the examination of the records by a certified
8 public accountant engaged by the bank to perform an
9 independent audit.

10 (2) The examination of any financial records by, or
11 the furnishing of financial records by a bank to, any
12 officer, employee or agent of (i) the Commissioner of
13 Banks and Real Estate, (ii) after May 31, 1997, a state
14 regulatory authority authorized to examine a branch of a
15 State bank located in another state, (iii) the
16 Comptroller of the Currency, (iv) the Federal Reserve
17 Board, or (v) the Federal Deposit Insurance Corporation
18 for use solely in the exercise of his duties as an
19 officer, employee, or agent.

20 (3) The publication of data furnished from
21 financial records relating to customers where the data
22 cannot be identified to any particular customer or
23 account.

24 (4) The making of reports or returns required under
25 Chapter 61 of the Internal Revenue Code of 1986.

26 (5) Furnishing information concerning the dishonor
27 of any negotiable instrument permitted to be disclosed
28 under the Uniform Commercial Code.

29 (6) The exchange in the regular course of business
30 of (i) credit information between a bank and other banks
31 or financial institutions or commercial enterprises,
32 directly or through a consumer reporting agency or (ii)
33 financial records or information derived from financial
34 records between a bank and other banks or financial

1 institutions or commercial enterprises for the purpose of
2 conducting due diligence pursuant to a purchase or sale
3 involving the bank or assets or liabilities of the bank.

4 (7) The furnishing of information to the
5 appropriate law enforcement authorities where the bank
6 reasonably believes it has been the victim of a crime.

7 (8) The furnishing of information under the Uniform
8 Disposition of Unclaimed Property Act.

9 (9) The furnishing of information under the
10 Illinois Income Tax Act and the Illinois Estate and
11 Generation-Skipping Transfer Tax Act.

12 (10) The furnishing of information under the
13 federal Currency and Foreign Transactions Reporting Act
14 Title 31, United States Code, Section 1051 et seq.

15 (11) The furnishing of information under any other
16 statute that by its terms or by regulations promulgated
17 thereunder requires the disclosure of financial records
18 other than by subpoena, summons, warrant, or court order.

19 (12) The furnishing of information about the
20 existence of an account of a person to a judgment
21 creditor of that person who has made a written request
22 for that information.

23 (13) The exchange in the regular course of business
24 of information between commonly owned banks in connection
25 with a transaction authorized under paragraph (23) of
26 Section 5 and conducted at an affiliate facility.

27 (14) The furnishing of information in accordance
28 with the federal Personal Responsibility and Work
29 Opportunity Reconciliation Act of 1996. Any bank governed
30 by this Act shall enter into an agreement for data
31 exchanges with a State agency provided the State agency
32 pays to the bank a reasonable fee not to exceed its
33 actual cost incurred. A bank providing information in
34 accordance with this item shall not be liable to any

1 account holder or other person for any disclosure of
2 information to a State agency, for encumbering or
3 surrendering any assets held by the bank in response to a
4 lien or order to withhold and deliver issued by a State
5 agency, or for any other action taken pursuant to this
6 item, including individual or mechanical errors, provided
7 the action does not constitute gross negligence or
8 willful misconduct. A bank shall have no obligation to
9 hold, encumber, or surrender assets until it has been
10 served with a subpoena, summons, warrant, court or
11 administrative order, lien, or levy.

12 (15) The exchange in the regular course of business
13 of information between a bank and any commonly owned
14 affiliate of the bank, subject to the provisions of the
15 Financial Institutions Insurance Sales Law.

16 (16) The furnishing of information to law
17 enforcement authorities, the Illinois Department on Aging
18 and its regional administrative and provider agencies,
19 the Department of Human Services Office of Inspector
20 General, or public guardians, if the bank suspects that a
21 customer who is an elderly or disabled person has been or
22 may become the victim of financial exploitation. For the
23 purposes of this item (16), the term: (i) "elderly
24 person" means a person who is 60 or more years of age,
25 (ii) "disabled person" means a person who has or
26 reasonably appears to the bank to have a physical or
27 mental disability that impairs his or her ability to seek
28 or obtain protection from or prevent financial
29 exploitation, and (iii) "financial exploitation" means
30 tortious or illegal use of the assets or resources of an
31 elderly or disabled person, and includes, without
32 limitation, misappropriation of the elderly or disabled
33 person's assets or resources by undue influence, breach
34 of fiduciary relationship, intimidation, fraud,

1 deception, extortion, or the use of assets or resources
 2 in any manner contrary to law. A bank or person
 3 furnishing information pursuant to this item (16) shall
 4 be entitled to the same rights and protections as a
 5 person furnishing information under the Elder Abuse and
 6 Neglect Act and the Illinois Domestic Violence Act of
 7 1986.

8 (17) The disclosure of financial records or
 9 information as necessary to effect, administer, or
 10 enforce a transaction requested or authorized by the
 11 customer, or in connection with:

12 (A) servicing or processing a financial
 13 product or service requested or authorized by the
 14 customer;

15 (B) maintaining or servicing a customer's
 16 account with the bank; or

17 (C) a proposed or actual securitization or
 18 secondary market sale (including sales of servicing
 19 rights) related to a transaction of a customer.

20 Nothing in this item (17), however, authorizes the
 21 sale of the financial records or information of a
 22 customer without the consent of the customer.

23 (18) The disclosure of financial records or
 24 information as necessary to protect against actual or
 25 potential fraud, unauthorized transactions, claims, or
 26 other liability.

27 (c) Except as otherwise provided by this Act, a bank may
 28 not disclose to any person, except to the customer or his
 29 duly authorized agent, any financial records or financial
 30 information obtained from financial records relating to that
 31 customer of that bank unless:

32 (1) the customer has authorized disclosure to the
 33 person;

34 (2) the financial records are disclosed in response

1 to a lawful subpoena, summons, warrant or court order
2 which meets the requirements of subsection (d) of this
3 Section; or

4 (3) the bank is attempting to collect an obligation
5 owed to the bank and the bank complies with the
6 provisions of Section 2I of the Consumer Fraud and
7 Deceptive Business Practices Act.

8 (d) A bank shall disclose financial records under
9 paragraph (2) of subsection (c) of this Section under a
10 lawful subpoena, summons, warrant, or court order only after
11 the bank mails a copy of the subpoena, summons, warrant, or
12 court order to the person establishing the relationship with
13 the bank, if living, and, otherwise his personal
14 representative, if known, at his last known address by first
15 class mail, postage prepaid, unless the bank is specifically
16 prohibited from notifying the person by order of court or by
17 applicable State or federal law. A bank shall not mail a
18 copy of a subpoena to any person pursuant to this subsection
19 if the subpoena was issued by a grand jury under the
20 Statewide Grand Jury Act.

21 (e) Any officer or employee of a bank who knowingly and
22 willfully furnishes financial records in violation of this
23 Section is guilty of a business offense and, upon conviction,
24 shall be fined not more than \$1,000.

25 (f) Any person who knowingly and willfully induces or
26 attempts to induce any officer or employee of a bank to
27 disclose financial records in violation of this Section is
28 guilty of a business offense and, upon conviction, shall be
29 fined not more than \$1,000.

30 (g) A bank shall be reimbursed for costs that are
31 reasonably necessary and that have been directly incurred in
32 searching for, reproducing, or transporting books, papers,
33 records, or other data of a customer required or requested to
34 be produced pursuant to a lawful subpoena, summons, warrant,

1 or court order. The Commissioner shall determine the rates
2 and conditions under which payment may be made.

3 (Source: P.A. 90-18, eff. 7-1-97; 90-665, eff. 7-30-98;
4 91-330, eff. 7-29-99; 91-929, eff. 12-15-00.)

5 (205 ILCS 5/48.5)

6 Sec. 48.5. Reliance on Commissioner.

7 (a) The Commissioner may issue an opinion in response to
8 a specific request from a member of the public or the banking
9 industry or on his own initiative. The opinion may be in the
10 form of an interpretive letter, no-objection letter, or other
11 issuance the Commissioner deems appropriate.

12 (b) No bank or other person shall be liable under this
13 Act for any act done or omitted in good faith in conformity
14 with any rule, interpretation, or opinion issued by the
15 Commissioner of Banks and Real Estate, notwithstanding that
16 after the act or omission has occurred, the rule, opinion, or
17 interpretation upon which reliance is placed is amended,
18 rescinded, or determined by judicial or other authority to be
19 invalid for any reason.

20 (Source: P.A. 90-161, eff. 7-23-97; 90-655, eff. 7-30-98.)

21 (205 ILCS 5/48.7 new)

22 Sec. 48.7. Opinions providing State banks parity in
23 regulation. Notwithstanding any other provision of law, if
24 any regulation, rule, interpretation, procedure, or guideline
25 of the Comptroller of the Currency, the Federal Deposit
26 Insurance Corporation, the Federal Reserve Board, or the bank
27 regulatory authority of any other state puts a bank doing
28 business under the provisions of this Act at a disadvantage
29 to a national bank, the Commissioner may issue an opinion or
30 interpretation that reduces or eliminates the disadvantage to
31 a bank doing business under this Act.

1 (205 ILCS 5/49) (from Ch. 17, par. 361)

2 Sec. 49. False statements; penalty. It is unlawful for
3 any officer, director, or employee of any State bank or
4 subsidiary or holding company of that bank or, after May 31,
5 1997, branch out of an out-of-state bank subject to
6 examination by the Commissioner or any person filing an
7 application or notice or submitting information in connection
8 with an application or notice with the Commissioner to who
9 shall willfully and knowingly subscribe to or make, or cause
10 to be made, any false statement or false entry with intent to
11 deceive any person or persons authorized to examine into the
12 affairs of the bank or the subsidiary or holding company of
13 that bank, or the branch of an out-of-state bank, or the
14 applicant or with intent to deceive the Commissioner or his
15 administrative officers in the performance of their duties
16 under this Act. A person who violates this Section is--upon
17 ~~conviction thereof,~~ shall be guilty of a Class 3 felony.

18 (Source: P.A. 89-208, eff. 9-29-95.)

19 (205 ILCS 5/51) (from Ch. 17, par. 363)

20 Sec. 51. Capital impairment, etc.; correction.

21 (a) If the Commissioner with respect to a State bank
22 shall find:

23 (1) its capital is impaired or it is otherwise in
24 an unsound condition; or

25 (2) its business is being conducted in an unlawful,
26 including, without limitation, in violation of any
27 provisions of this Act, or in a fraudulent or unsafe
28 manner; or

29 (3) it is unable to continue operations; or

30 (4) its examination has been obstructed or impeded;
31 the Commissioner may give notice to the board of
32 directors or his finding or findings. If the situation so
33 found by the Commissioner shall not be corrected to his

1 satisfaction within a period of at least sixty but no
2 more than one hundred and eighty days after receipt of
3 such notice, which period shall be determined by the
4 Commissioner and set forth in the notice, the
5 Commissioner at the termination of said period shall take
6 possession and control of the bank and its assets as in
7 this Act provided for the purpose of examination,
8 reorganization or liquidation through receivership.

9 (b) If the Commissioner has given notice to the board of
10 directors of his findings, as provided in subsection (a), and
11 the time period prescribed in that notice has expired, the
12 Commissioner may extend the time period prescribed in that
13 notice for such period as the Commissioner deems appropriate.

14 (Source: P.A. 87-841.)

15 (205 ILCS 5/53) (from Ch. 17, par. 365)

16 Sec. 53. Commissioner's possession; power. The
17 Commissioner may take possession and control of a state bank
18 and its assets, by posting upon the premises a notice
19 reciting that he is assuming possession pursuant to this Act,
20 and the time when his possession shall be deemed to commence,
21 which time shall not pre-date the posting of the notice.
22 Promptly after taking possession and control of a bank, if
23 the Federal Deposit Insurance Corporation is not appointed as
24 receiver, the Commissioner shall file a copy of the notice
25 posted upon the premises in the circuit court in the county
26 in which the bank is located, and thereupon the clerk of such
27 court shall note the filing thereof upon the records of the
28 court, and shall enter such cause as a court action upon the
29 dockets of such court under the name and style of "In the
30 matter of the possession and control of the Commissioner of
31 Banks and Real Estate of" (inserting the name of such
32 bank), and thereupon the court wherein such cause is docketed
33 shall be vested with jurisdiction to hear and determine all

1 issues and matters pertaining to or connected with the
2 Commissioner's possession and control of such bank as
3 provided in this Act, and such further issues and matters
4 pertaining to or connected with the Commissioner's possession
5 and control as may be submitted to such court for its
6 adjudication by the Commissioner. When the Commissioner has
7 taken possession and control of a bank and its assets, he
8 shall be vested with the full powers of management and
9 control, including without limiting the generality thereof,
10 the following:

11 (1) the power to continue or to discontinue the
12 business;

13 (2) the power to stop or to limit the payment of
14 its obligations, provided, however with respect to a
15 qualified financial contract between any party and a bank
16 or banking office, the branch or agency of which the
17 Commissioner has taken possession and control, which
18 party has a perfected security interest in collateral or
19 other valid lien or security interest in collateral
20 enforceable against third parties pursuant to a security
21 arrangement related to that qualified financial contract,
22 the party may retain all of the collateral and upon
23 repudiation or termination of that qualified financial
24 contract in accordance with its terms apply the
25 collateral in satisfaction of any claims secured by the
26 collateral; in no event shall the total amount so applied
27 exceed the global net payment obligation, if any;

28 (3) the power to collect and to use its assets and
29 to give valid receipts and acquittances therefor;

30 (4) the power to employ and to pay any necessary
31 assistants;

32 (5) the power to execute any instrument in the name
33 of the bank;

34 (6) the power to commence, defend and conduct in

1 its name any action or proceeding in which it may be a
2 party;

3 (7) the power, upon the order of the court, to sell
4 and convey its assets in whole or in part, and to sell or
5 compound bad or doubtful debts upon such terms and
6 conditions as may be fixed in such order;

7 (8) the power, upon the order of the court, to make
8 and to carry out agreements with other banks or with the
9 United States or any agency thereof which shall have
10 insured the bank's deposits, in whole or in part, for the
11 payment or assumption of the bank's liabilities, in whole
12 or in part, and to transfer assets and to make
13 guaranties, in whole or in part, and to transfer assets
14 and to make guaranties in connection therewith;

15 (9) the power, upon the order of the court, to
16 borrow money in the name of the bank and to pledge its
17 assets as security for the loan;

18 (10) the power to terminate his possession and
19 control by restoring the bank to its board of directors;

20 (11) the power to reorganize the bank as provided
21 in this Act;

22 (12) the power to appoint a receiver and to order
23 liquidation of the bank as provided in this Act; and

24 (13) the power, upon the order of the court and
25 without the appointment of a receiver, to determine that
26 the bank has been closed for the purpose of liquidation
27 without adequate provision being made for payment of its
28 depositors, and thereupon the bank shall be deemed to
29 have been closed on account of inability to meet the
30 demands of its depositors.

31 As soon as practical after taking possession, the
32 Commissioner shall make his examination of the condition of
33 the bank and an inventory of the assets. Unless the time
34 shall be extended by order of the court and, unless the

1 Commissioner shall have otherwise settled the affairs of a
2 bank pursuant to the provisions of this Act, at the
3 termination of thirty days from the time of taking possession
4 and control of a bank for the purpose of examination,
5 reorganization or liquidation through receivership, the
6 Commissioner shall either terminate his possession and
7 control by restoring the bank to its board of directors or
8 appoint a receiver and order the liquidation of the bank as
9 provided in this Act. All necessary and reasonable expenses
10 of the Commissioner's possession and control and of its
11 reorganization shall be borne by the bank and may be paid by
12 the Commissioner from its assets. If the Federal Deposit
13 Insurance Corporation is appointed by the Commissioner as
14 receiver of a State bank, or the Federal Deposit Insurance
15 Corporation takes possession of such State bank, the
16 receivership proceedings and the powers and duties of the
17 Federal Deposit Insurance Corporation shall be governed by
18 the Federal Deposit Insurance Act and regulations promulgated
19 thereunder rather than the provisions of this Act.

20 (Source: P.A. 89-364, eff. 8-18-95; 89-508, eff. 7-3-96.)

21 Section 15. The Illinois Bank Holding Company Act of
22 1957 is amended by changing Section 3.074 as follows:

23 (205 ILCS 10/3.074) (from Ch. 17, par. 2510.04)

24 Sec. 3.074. Powers; administrative review.

25 (a) The Commissioner shall have the power and authority:

26 (1) ~~(a)~~ to promulgate reasonable procedural rules
27 for the purposes of administering the provisions of this
28 Act. The Commissioner shall specify the form of any
29 application, report or document that is required to be
30 filed with the Commissioner pursuant to this Act;

31 (2) ~~(b)~~ to issue orders for the purpose of
32 administering the provisions of this Act and any rule

1 promulgated in accordance with this Act;

2 (3) (e) to appoint hearing officers to execute any
3 of the powers granted to the Commissioner under this
4 Section for the purpose of administering this Act or any
5 rule promulgated in accordance with this Act; and

6 (4) (d) to subpoena witnesses, to compel their
7 attendance, to administer an oath, to examine any person
8 under oath and to require the production of any relevant
9 books, papers, accounts and documents in the course of
10 and pursuant to any investigation or hearing being
11 conducted or any action being taken by the Commissioner
12 in respect to any matter relating to the duties imposed
13 upon or the powers vested in the Commissioner under the
14 provisions of this Act or any rule promulgated in
15 accordance with this Act. ~~;-and~~

16 (b) Whenever, in the opinion of the Commissioner, any
17 director, officer, employee, or agent of any bank holding
18 company or subsidiary or affiliate of that company shall have
19 violated any law, rule, or order relating to that bank
20 holding company or subsidiary or affiliate of that company,
21 shall have obstructed or impeded any examination or
22 investigation by the Commissioner, shall have engaged in
23 an unsafe or unsound practice in conducting the business
24 of that bank holding company or subsidiary or affiliate of
25 that company, or shall have violated any law or engaged or
26 participated in any unsafe or unsound practice in
27 connection with any financial institution or other business
28 entity such that the character and fitness of the director,
29 officer, employee, or agent does not assure reasonable
30 promise of safe and sound operation of the bank holding
31 company, the Commissioner may issue an order of removal. If,
32 in the opinion of the Commissioner, any former director,
33 officer, employee, or agent of a bank holding company or
34 subsidiary or affiliate of that company, prior to the

1 termination of his or her service with that holding company
2 or subsidiary or affiliate of that company, violated any law,
3 rule, or order relating to that bank holding company or
4 subsidiary or affiliate of that company, obstructed or
5 impeded any examination or investigation by the Commissioner,
6 engaged in an unsafe or unsound practice in conducting the
7 business of that bank holding company or subsidiary or
8 affiliate of that company, or violated any law or engaged
9 or participated in any unsafe or unsound practice in
10 connection with any financial institution or other business
11 entity such that the character and fitness of the director,
12 officer, employee, or agent would not have assured
13 reasonable promise of safe and sound operation of the bank
14 holding company, the Commissioner may issue an order
15 prohibiting that person from further service with a bank
16 holding company or subsidiary or affiliate of that company as
17 a director, officer, employee, or agent.

18 An order issued pursuant to this subsection shall be
19 served upon the director, officer, employee, or agent. A copy
20 of the order shall be sent to each director of the bank
21 holding company affected by registered mail. The person
22 affected by the action may request a hearing before the State
23 Banking Board within 10 days after receipt of the order. The
24 hearing shall be held by the State Banking Board within 30
25 days after the request has been received by the State Banking
26 Board. The State Banking Board shall make a determination
27 approving, modifying, or disapproving the order of the
28 Commissioner as its final administrative decision. If a
29 hearing is held by the State Banking Board, the State Banking
30 Board shall make its determination within 60 days from the
31 conclusion of the hearing. Any person affected by a decision
32 of the State Banking Board under this subsection may have the
33 decision reviewed only under and in accordance with the
34 Administrative Review Law and the rules adopted pursuant

1 thereto. A copy of the order shall also be served upon the
2 bank holding company of which he is a director, officer,
3 employee, or agent, whereupon he shall cease to be a
4 director, officer, employee, or agent of that bank holding
5 company.

6 The Commissioner may institute a civil action against the
7 director, officer, employee, or agent of the bank holding
8 company, against whom any order provided for by this
9 subsection has been issued, to enforce compliance with or to
10 enjoin any violation of the terms of the order.

11 Any person who has been the subject of an order of
12 removal or an order of prohibition issued by the Commissioner
13 under this subsection, subdivision (7) of Section 48 of the
14 Illinois Banking Act, or Section 5-6 of the Corporate
15 Fiduciary Act may not thereafter serve as director, officer,
16 employee, or agent of any holding company, State bank, or
17 branch of any out-of-state bank, of any corporate fiduciary,
18 as defined in Section 1-5.05 of the Corporate Fiduciary Act,
19 or of any other entity that is subject to licensure or
20 regulation by the Commissioner or the Office of Banks and
21 Real Estate unless the Commissioner has granted prior
22 approval in writing.

23 (c) (e) All final administrative decisions of the
24 Commissioner under this Act shall be subject to judicial
25 review pursuant to provisions of the Administrative Review
26 Law. For matters involving administrative review, venue shall
27 be in either Sangamon County or Cook County.

28 (Source: P.A. 86-754.)

29 Section 20. The Illinois Savings and Loan Act of 1985 is
30 amended by changing Sections 1-6, 2B-2, 2B-5, 3-8, and 5-16
31 and adding Sections 7-3.2 and 7-3.3 as follows:

32 (205 ILCS 105/1-6) (from Ch. 17, par. 3301-6)

1 Sec. 1-6. General corporate powers. An association
2 operating under this Act shall be a body corporate and
3 politic and shall have all of the powers conferred by this
4 Act including, but not limited to, the following powers:

5 (a) To sue and be sued, complain and defend in its
6 corporate name, and to have a common seal, which it may alter
7 or renew at pleasure;

8 (b) To obtain and maintain insurance of the
9 association's withdrawable capital by an insurance
10 corporation as defined in this Act;

11 (c) Notwithstanding anything to the contrary contained
12 in this Act, to become a member of the Federal Home Loan
13 Bank, and to have all of the powers granted to a savings or
14 thrift institution organized under the laws of the United
15 States and which is located and doing business in the State
16 of Illinois, subject to regulations of the Commissioner;

17 (d) To act as a fiscal agent for the United States, the
18 State of Illinois or any department, branch, arm or agency of
19 the State or any unit of local government or school district
20 in the State when duly designated for that purpose, and as
21 agent to perform the reasonable functions as may be required
22 of it;

23 (e) To become a member of or deal with any corporation
24 or agency of the United States or the State of Illinois, to
25 the extent that the agency assists in furthering or
26 facilitating the association's purposes or powers and to that
27 end to purchase stock or securities thereof or deposit money
28 therewith, and to comply with any other conditions of
29 membership or credit;

30 (f) To make donations in reasonable amounts for the
31 public welfare or for charitable, scientific, religious or
32 educational purposes;

33 (g) To adopt and operate reasonable insurance, bonus,
34 profit sharing, and retirement plans for officers and

1 employees; likewise, directors who are not officers,
2 including, but not limited to, advisory, honorary, and
3 emeritus directors, may participate in those plans;

4 (h) To reject any application for membership, to retire
5 withdrawable capital by enforced retirement as provided in
6 this Act and the by-laws, and to limit the issuance of or
7 payments on withdrawable capital, subject, however, to
8 contractual obligations;

9 (i) To purchase stock in service corporations and to
10 invest in any form of indebtedness of any service corporation
11 as defined in this Act, subject to regulations of the
12 Commissioner;

13 (j) To purchase stock of a corporation whose principal
14 purpose is to operate a safe deposit company or escrow
15 service company;

16 (k) To act as Trustee or Custodian under the Federal
17 Self-Employed Individuals' Tax Retirement Act of 1962 or any
18 amendments thereto or any other retirement account and invest
19 any funds held in such capacity in a savings account of the
20 institution;

21 (l) (Blank);

22 (m) To establish, maintain and operate terminals as
23 authorized by the Electronic Fund Transfer Act and by Section
24 5 of the Illinois Banking Act. The establishment,
25 maintenance, operation and location of such terminals shall
26 be subject to the approval of the Commissioner;

27 (n) Subject to the approval and regulations of the
28 Commissioner, an association may purchase or assume all or
29 any part of the assets or liabilities of an eligible insured
30 bank;

31 (o) To purchase from a bank, as defined in Section 2 of
32 the Illinois Banking Act, an insubstantial portion of the
33 total deposits of an insured bank. For the purpose of this
34 subparagraph, "insubstantial portion of the total deposits"

1 shall have the same meaning as provided in Section 5(d)(2)(D)
2 of the Federal Deposit Insurance Act;

3 (p) To effect an acquisition of or conversion to another
4 financial institution pursuant to Section 205 of the
5 Financial Institutions Reform, Recovery and Enforcement Act
6 of 1989;

7 (q) To pledge its assets:

8 (1) to enable it to act as an agent for the sale of
9 obligations of the United States;

10 (2) to secure deposits;

11 (3) to secure deposits of money whenever required
12 by the National Bankruptcy Act;

13 (4) ~~(Blank) to qualify under Section 2-9 of the~~
14 ~~Corporate Fiduciary Act;~~ and

15 (5) to secure trust funds commingled with the
16 institution's funds, whether deposited by the institution
17 or an affiliate of the institution, as required under
18 Section 2-8 of the Corporate Fiduciary Act;

19 (r) To provide temporary periodic service to persons
20 residing in a bona fide nursing home, senior citizens'
21 retirement home, or long-term care facility;

22 (s) To purchase for its own account shares of stock of a
23 bankers' bank, described in Section 13(b)(1) of the Illinois
24 Banking Act, on the same terms and conditions as a bank may
25 purchase such shares. In no event shall the total amount of
26 such stock held by an association in such bankers' bank
27 exceed 10% of its capital and surplus (including undivided
28 profits) and in no event shall an association acquire more
29 than 5% of any class of voting securities of such bankers'
30 bank;

31 (t) To effect a conversion to a State bank pursuant to
32 the provisions of the Illinois Banking Act;

33 (u) Subject to Article XLIV of the Illinois Insurance
34 Code, to act as the agent for any fire, life, or other

1 insurance company authorized by the State of Illinois, by
 2 soliciting and selling insurance and collecting premiums on
 3 policies issued by such company; and may receive for services
 4 so rendered such fees or commissions as may be agreed upon
 5 between the said association and the insurance company for
 6 which it may act as agent; provided, however, that no such
 7 association shall in any case assume or guarantee the payment
 8 of any premium on insurance policies issued through its
 9 agency by its principal; and provided further, that the
 10 association shall not guarantee the truth of any statement
 11 made by an assured in filing his application for insurance;
 12 and

13 (v) To exercise all powers necessary to qualify as a
 14 trustee or custodian under federal or State law, however, the
 15 authority to accept and execute trusts is subject to the
 16 Corporate Fiduciary Act and to the supervision of those
 17 activities by the Commissioner.

18 (Source: P.A. 90-14, eff. 7-1-97; 90-41, eff. 10-1-97; 91-97,
 19 eff. 7-9-99.)

20 (205 ILCS 105/2B-2) (from Ch. 17, par. 3302B-2)

21 Sec. 2B-2. Notice of filing of application; hearing;
 22 renewal of certificate.

23 (a) Whenever such association has complied with the
 24 provisions of this Act, and the Commissioner is satisfied
 25 that such association and any subsidiary operating in this
 26 State are ~~is~~ doing business according to the laws of this
 27 State, and are ~~is~~ in sound financial condition, he shall
 28 authorize the association to publish in newspapers of general
 29 circulation in the State of Illinois, notice of filing of its
 30 application, provided that subsections (a) through (e) of
 31 this Section shall not apply in the case of merger,
 32 consolidation, or purchase as set forth in paragraph (c) of
 33 Section 2B-1. Publication in the manner and on forms

1 prescribed by the Commissioner in the county of the proposed
2 office of the association shall be made within 15 days of
3 authorization.

4 (b) Within 10 days following the date of publication of
5 notice of application any association or person wishing to
6 object to any application filed pursuant to Section 2B-1
7 shall:

8 (1) file in triplicate, on forms prescribed by the
9 Commissioner, its verified objections at the Springfield
10 Office of the Commissioner; and

11 (2) serve the applicant or its attorney of record
12 with a copy of the objections and show proof of service
13 of said copy.

14 (c) If the Commissioner considers the verified
15 objections to be substantial, he shall so advise the objector
16 and the applicant within 15 calendar days after receipt of
17 the objections and shall issue notice of intent to conduct a
18 hearing on the application. Such notice shall provide for
19 public examination of the application. A determination that
20 an objection is substantial shall be based only on data
21 showing undue injury to properly conducted existing
22 associations or data disputing the propriety of information
23 set forth in the application, or both.

24 (d) The Commissioner shall conduct a hearing upon
25 receipt of an objection filed on time and containing the
26 following:

27 (1) a summary of the reasons for the objection;

28 (2) the specific matters in the application to
29 which objection is raised and the reasons for each
30 objection;

31 (3) facts supporting the objection, including
32 relevant economic or financial data; and

33 (4) adverse effects on the objector which may
34 result from approval of the application.

1 The time and place of said hearing shall be established
2 by the Commissioner and 20 days notice shall be given to all
3 parties of record. The hearing shall be conducted in
4 conformance with administrative hearing procedures
5 established pursuant to rules and regulations adopted by the
6 Commissioner. A transcript of any such hearing shall be
7 taken and made a part of the record in the matter.

8 (e) A certificate of authority shall not be issued
9 unless the Commissioner finds that a need exists for savings
10 and loan association services in the community or area of
11 operations of the applicant association and the applicant
12 association will satisfy said need or that the association
13 can be maintained without undue injury to properly conducted
14 existing associations.

15 (f) Annually thereafter, upon the filing of the annual
16 statement herein provided for, if the Commissioner finds that
17 the association and any subsidiary operating in this State
18 are is doing business in accordance with this Act and are is
19 otherwise in sound financial condition, he shall issue a
20 renewal of such certificate of Authority.

21 (Source: P.A. 86-210; 86-952.)

22 (205 ILCS 105/2B-5) (from Ch. 17, par. 3302B-5)

23 Sec. 2B-5. Cancellation of authority; notice. Should
24 the Commissioner find, upon examination, that any foreign
25 association or any subsidiary operating in Illinois does not
26 conduct its business in accordance with the law, or that the
27 affairs of any such association or subsidiary are in an
28 unsound condition, or if such association refuses to permit
29 examination to be made, he may cancel the authority of such
30 association to do business in this State, and cause a notice
31 thereof to be sent to the home office of the association, and
32 to be published in at least one newspaper in the City of
33 Springfield. After the publication of such notice, it shall

1 be unlawful for any agent of the association to receive any
2 further stock deposits from members residing in this State,
3 except payments on stock on which a loan has been taken.

4 (Source: P.A. 85-1143.)

5 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

6 Sec. 3-8. Access to books and records; communication
7 with members.

8 (a) Every member or holder of capital shall have the
9 right to inspect the books and records of the association
10 that pertain to his account. Otherwise, the right of
11 inspection and examination of the books and records shall be
12 limited as provided in this Act, and no other person shall
13 have access to the books and records or shall be entitled to
14 a list of the members.

15 (b) For the purpose of this Section, the term "financial
16 records" means any original, any copy, or any summary of (i)
17 a document granting signature authority over a deposit or
18 account; (ii) a statement, ledger card, or other record on
19 any deposit or account that shows each transaction in or with
20 respect to that account; (iii) a check, draft, or money order
21 drawn on an association or issued and payable by an
22 association; or (iv) any other item containing information
23 pertaining to any relationship established in the ordinary
24 course of an association's business between an association
25 and its customer, including financial statements or other
26 financial information provided by the member or holder of
27 capital.

28 (c) This Section does not prohibit:

29 (1) The preparation, examination, handling, or
30 maintenance of any financial records by any officer,
31 employee, or agent of an association having custody of
32 those records or the examination of those records by a
33 certified public accountant engaged by the association to

1 perform an independent audit.†

2 (2) The examination of any financial records by, or
3 the furnishing of financial records by an association to,
4 any officer, employee, or agent of the Commissioner of
5 Banks and Real Estate, Federal Savings and Loan Insurance
6 Corporation and its successors, Federal Deposit Insurance
7 Corporation, Resolution Trust Corporation and its
8 successors, Federal Home Loan Bank Board and its
9 successors, Office of Thrift Supervision, Federal Housing
10 Finance Board, Board of Governors of the Federal Reserve
11 System, any Federal Reserve Bank, or the Office of the
12 Comptroller of the Currency for use solely in the
13 exercise of his duties as an officer, employee, or
14 agent.†

15 (3) The publication of data furnished from
16 financial records relating to members or holders of
17 capital where the data cannot be identified to any
18 particular member, holder of capital, or account.†

19 (4) The making of reports or returns required under
20 Chapter 61 of the Internal Revenue Code of 1986.†

21 (5) Furnishing information concerning the dishonor
22 of any negotiable instrument permitted to be disclosed
23 under the Uniform Commercial Code.†

24 (6) The exchange in the regular course of business
25 of (i) credit information between an association and
26 other associations or financial institutions or
27 commercial enterprises, directly or through a consumer
28 reporting agency or (ii) financial records or information
29 derived from financial records between an association and
30 other associations or financial institutions or
31 commercial enterprises for the purpose of conducting due
32 diligence pursuant to a purchase or sale involving the
33 association or assets or liabilities of the association.†

34 (7) The furnishing of information to the

1 appropriate law enforcement authorities where the
2 association reasonably believes it has been the victim of
3 a crime.†

4 (8) The furnishing of information pursuant to the
5 Uniform Disposition of Unclaimed Property Act.†

6 (9) The furnishing of information pursuant to the
7 Illinois Income Tax Act and the Illinois Estate and
8 Generation-Skipping Transfer Tax Act.†

9 (10) The furnishing of information pursuant to the
10 federal "Currency and Foreign Transactions Reporting
11 Act", (Title 31, United States Code, Section 1051 et
12 seq.).†

13 (11) The furnishing of information pursuant to any
14 other statute that by its terms or by regulations
15 promulgated thereunder requires the disclosure of
16 financial records other than by subpoena, summons,
17 warrant, or court order.†

18 (12) The exchange of information between an
19 association and an affiliate of the association; as used
20 in this item, "affiliate" includes any company,
21 partnership, or organization that controls, is controlled
22 by, or is under common control with an association.

23 (13) The furnishing of information in accordance
24 with the federal Personal Responsibility and Work
25 Opportunity Reconciliation Act of 1996. Any association
26 governed by this Act shall enter into an agreement for
27 data exchanges with a State agency provided the State
28 agency pays to the association a reasonable fee not to
29 exceed its actual cost incurred. An association
30 providing information in accordance with this item shall
31 not be liable to any account holder or other person for
32 any disclosure of information to a State agency, for
33 encumbering or surrendering any assets held by the
34 association in response to a lien or order to withhold

1 and deliver issued by a State agency, or for any other
2 action taken pursuant to this item, including individual
3 or mechanical errors, provided the action does not
4 constitute gross negligence or willful misconduct. An
5 association shall have no obligation to hold, encumber,
6 or surrender assets until it has been served with a
7 subpoena, summons, warrant, court or administrative
8 order, lien, or levy.

9 (14) The furnishing of information to law
10 enforcement authorities, the Illinois Department on Aging
11 and its regional administrative and provider agencies,
12 the Department of Human Services Office of Inspector
13 General, or public guardians, if the association suspects
14 that a customer who is an elderly or disabled person has
15 been or may become the victim of financial exploitation.
16 For the purposes of this item (14), the term: (i)
17 "elderly person" means a person who is 60 or more years
18 of age, (ii) "disabled person" means a person who has or
19 reasonably appears to the association to have a physical
20 or mental disability that impairs his or her ability to
21 seek or obtain protection from or prevent financial
22 exploitation, and (iii) "financial exploitation" means
23 tortious or illegal use of the assets or resources of an
24 elderly or disabled person, and includes, without
25 limitation, misappropriation of the elderly or disabled
26 person's assets or resources by undue influence, breach
27 of fiduciary relationship, intimidation, fraud,
28 deception, extortion, or the use of assets or resources
29 in any manner contrary to law. An association or person
30 furnishing information pursuant to this item (14) shall
31 be entitled to the same rights and protections as a
32 person furnishing information under the Elder Abuse and
33 Neglect Act and the Illinois Domestic Violence Act of
34 1986.

1 (15) The disclosure of financial records or
 2 information as necessary to effect, administer, or
 3 enforce a transaction requested or authorized by the
 4 member or holder of capital, or in connection with:

5 (A) servicing or processing a financial
 6 product or service requested or authorized by the
 7 member or holder of capital;

8 (B) maintaining or servicing an account of a
 9 member or holder of capital with the association; or

10 (C) a proposed or actual securitization or
 11 secondary market sale (including sales of servicing
 12 rights) related to a transaction of a member or
 13 holder of capital.

14 Nothing in this item (15), however, authorizes the
 15 sale of the financial records or information of a member
 16 or holder of capital without the consent of the member or
 17 holder of capital.

18 (16) The disclosure of financial records or
 19 information as necessary to protect against or prevent
 20 actual or potential fraud, unauthorized transactions,
 21 claims, or other liability.

22 (d) An association may not disclose to any person,
 23 except to the member or holder of capital or his duly
 24 authorized agent, any financial records relating to that
 25 member or holder of capital of that association unless:

26 (1) The member or holder of capital has authorized
 27 disclosure to the person; or

28 (2) The financial records are disclosed in response
 29 to a lawful subpoena, summons, warrant, or court order
 30 that meets the requirements of subsection (e) of this
 31 Section.

32 (e) An association shall disclose financial records
 33 under subsection (d) of this Section pursuant to a lawful
 34 subpoena, summons, warrant, or court order only after the

1 association mails a copy of the subpoena, summons, warrant,
2 or court order to the person establishing the relationship
3 with the association, if living, and, otherwise, his personal
4 representative, if known, at his last known address by first
5 class mail, postage prepaid, unless the association is
6 specifically prohibited from notifying that person by order
7 of court.

8 (f) (1) Any officer or employee of an association who
9 knowingly and willfully furnishes financial records in
10 violation of this Section is guilty of a business offense
11 and, upon conviction, shall be fined not more than \$1,000.

12 (2) Any person who knowingly and willfully induces or
13 attempts to induce any officer or employee of an association
14 to disclose financial records in violation of this Section is
15 guilty of a business offense and, upon conviction, shall be
16 fined not more than \$1,000.

17 (g) However, if any member desires to communicate with
18 the other members of the association with reference to any
19 question pending or to be presented at a meeting of the
20 members, the association shall give him upon request a
21 statement of the approximate number of members entitled to
22 vote at the meeting and an estimate of the cost of preparing
23 and mailing the communication. The requesting member then
24 shall submit the communication to the Commissioner who, if he
25 finds it to be appropriate and truthful, shall direct that it
26 be prepared and mailed to the members upon the requesting
27 member's payment or adequate provision for payment of the
28 expenses of preparation and mailing.

29 (h) An association shall be reimbursed for costs that
30 are necessary and that have been directly incurred in
31 searching for, reproducing, or transporting books, papers,
32 records, or other data of a customer required to be
33 reproduced pursuant to a lawful subpoena, warrant, or court
34 order.

1 (Source: P.A. 90-18, eff. 7-1-97; 91-929, eff. 12-15-00.)

2 (205 ILCS 105/5-16) (from Ch. 17, par. 3305-16)

3 Sec. 5-16. Limitation on loans to a single borrower.

4 Except for loans to its wholly owned service corporations, an
5 association may not at any one time hold, directly or
6 indirectly, loans to any one corporation or person in a total
7 amount equal to or in excess of 10% of the association's
8 total withdrawable accounts or an amount equal to the total
9 net worth of the association, whichever is less. An
10 association may make loans to a wholly owned service
11 corporation in an amount equal to the association's net worth
12 or in an amount that exceeds an association's net worth if
13 such excess amount is secured by collateral, of a type upon
14 which the association itself could lend, of a value
15 determined in accordance with rules and regulations
16 promulgated by the Commissioner.

17 (a) In computing the total mortgage loans made by an
18 association to an individual, there shall be included all
19 mortgage loans made by the association to a partnership or
20 other unincorporated association of which he is a member, the
21 unpaid balance of mortgage loans made either for his benefit
22 or for the benefit of such partnership or other
23 unincorporated association and all mortgage loans to or for
24 the benefit of a corporation of which he owns or controls 25%
25 or more of the capital stock.

26 (b) In computing the total mortgage loans made by an
27 association to a partnership or other unincorporated
28 association, there shall be included the unpaid balance of
29 mortgage loans to its individual members, the unpaid balance
30 of mortgage loans made for the benefit of such partnership or
31 other unincorporated association, or of any member thereof,
32 and all mortgage loans to or for the benefit of any
33 corporation of which the partnership or unincorporated

1 association, or any member thereof, owns or controls 25% or
2 more of the capital stock.

3 (c) In computing the total mortgage loans made by an
4 association to a corporation, there shall be included the
5 unpaid balance of mortgage loans made for the benefit of the
6 corporation and all mortgage loans to or for the benefit of
7 any individual who owns or controls 25% or more of the
8 capital stock of such corporation.

9 (d) This Section does not apply to the obligations as
10 endorser, whether with or without recourse, or as guarantor,
11 whether conditional or unconditional, of negotiable or
12 nonnegotiable installment consumer paper of the person
13 transferring the same if the association's files or the
14 knowledge of its officers of the financial condition of each
15 maker of those obligations is reasonably adequate and if an
16 officer of the association, designated for that purpose by
17 the board of directors of the association, certifies that the
18 responsibility of each maker of the obligations has been
19 evaluated and that the association is relying primarily upon
20 each maker for the payment of the obligations. The
21 certification shall be in writing and shall be retained as
22 part of the records of the association.

23 (Source: P.A. 86-137.)

24 (205 ILCS 105/7-3.2 new)

25 Sec. 7-3.2. Reliance on Commissioner.

26 (a) The Commissioner may issue an opinion in response to
27 a specific request from a member of the public or the savings
28 association industry or on his own initiative. The opinion
29 may be in the form of an interpretive letter, no-objection
30 letter, or other issuance the Commissioner deems appropriate.

31 (b) If the Commissioner determines that the opinion is
32 useful for the general guidance of the public or
33 associations, the Commissioner may disseminate the opinion by

1 newsletter, via an electronic medium such as the internet, in
2 a volume of statutes or related materials published by the
3 Commissioner or others, or by other means reasonably
4 calculated to notify persons affected by the opinion. A
5 published opinion must be redacted to preserve the
6 confidentiality of the requesting party unless the requesting
7 party consents to be identified in the published opinion.

8 (c) No association or other person shall be liable under
9 this Act for any act done or omitted in good faith in
10 conformity with any rule, interpretation, or opinion issued
11 by the Commissioner, notwithstanding that after the act or
12 omission has occurred, the rule, opinion, or interpretation
13 upon which reliance is placed is amended, rescinded, or
14 determined by judicial or other authority to be invalid for
15 any reason.

16 (205 ILCS 105/7-3.3 new)

17 Sec. 7-3.3. Opinions providing association parity in
18 regulation. Notwithstanding any other provision of law, if
19 any regulation, rule, interpretation, procedure, or guideline
20 of the Comptroller of the Currency, the Federal Deposit
21 Insurance Corporation, the Federal Reserve Board, the U.S.
22 Office of Thrift Supervision, or the depository institution
23 regulatory authority of any other state puts an association
24 doing business under the provisions of this Act at a
25 disadvantage to a federal association or federal savings
26 bank, the Commissioner may issue an opinion or interpretation
27 that reduces or eliminates the disadvantage to an association
28 doing business under this Act.

29 (205 ILCS 105/11-5 rep.)

30 Section 22. The Illinois Savings and Loan Act of 1985 is
31 amended by repealing Section 11-5.

1 Section 25. The Savings Bank Act is amended by changing
 2 Sections 1006, 1007.35, 1008, 4005, 4013, 6013, 8015, 10001,
 3 11003, 11004, and 11008 and adding Sections 5010 and 9019 as
 4 follows:

5 (205 ILCS 205/1006) (from Ch. 17, par. 7301-6)
 6 Sec. 1006. Parity.

7 (a) Subject to the regulation of the Commissioner and in
 8 addition to the powers granted by this Act, each savings
 9 bank operating under this Act shall possess those powers
 10 granted by regulation promulgated under the Federal Deposit
 11 Insurance Act for state savings banks.

12 (b) A savings bank may establish branches or offices at
 13 which savings or investments are regularly received or loans
 14 approved as follows:

15 (1) to the extent branch powers and offices are
 16 granted to State banks under the Illinois Banking Act;

17 (2) within the geographic area defined in Article 2
 18 of this Act and subject to the provisions of Article 2 of
 19 this Act;

20 (3) within the same geographic areas or states as
 21 those states from which a holding company is permitted to
 22 acquire an Illinois savings bank or an Illinois savings
 23 bank holding company;

24 (4) to the same extent that holding companies and
 25 savings and loan associations headquartered outside the
 26 State of Illinois are allowed to operate in Illinois by
 27 virtue of Articles 1A and 2B of the Illinois Savings and
 28 Loan Act of 1985;

29 (5) as the result of mergers, consolidations, or
 30 bulk sales of facilities in the case of relocations.

31 (c) The Commissioner may adopt regulations that provide
 32 for the establishment of branches as defined by the
 33 Commissioner.

1 (d) Notwithstanding any other provision of this Act, a
2 savings bank that purchases or assumes all or any part of the
3 assets or liabilities of a bank, savings bank, or savings and
4 loan association or merges or consolidates with a bank,
5 savings bank, or savings and loan association may retain and
6 maintain the main premises or branches of the former bank,
7 savings bank, or savings and loan association as branches of
8 the purchasing, merging, or consolidating savings bank,
9 provided it assumes the deposit liabilities of the bank,
10 savings bank, or savings and loan association maintained at
11 the main premises or branches.

12 (e) A savings bank has any power reasonably incident,
13 convenient, or useful to the accomplishment of the powers
14 conferred upon the savings bank by this Act.

15 (f) Notwithstanding any other provision of law, if any
16 regulation, rule, interpretation, procedure, or guideline of
17 the Comptroller of the Currency, the Federal Deposit
18 Insurance Corporation, the Federal Reserve Board, the U.S.
19 Office of Thrift Supervision, or the depository institution
20 regulatory authority of any other state puts a savings bank
21 doing business under the provisions of this Act at a
22 disadvantage to a federal association, federal savings bank
23 or a national bank, the Commissioner may issue an opinion or
24 interpretation that reduces or eliminates the disadvantage to
25 a savings bank doing business under this Act.

26 (Source: P.A. 89-74, eff. 6-30-95; 90-301, eff. 8-1-97;
27 90-665, eff. 7-30-98.)

28 (205 ILCS 205/1007.35) (from Ch. 17, par. 7301-7.35)
29 Sec. 1007.35. "Control", unless specified otherwise in
30 this Act, shall mean:

31 (1) the ability of any person, entity, persons, or
32 entities acting alone or in concert with one or more persons
33 or entities, to own, hold, or direct with power to vote, or

1 to hold proxies representing, 10% or more of the voting
2 shares or rights of a savings bank, savings bank subsidiary,
3 savings bank affiliate, or savings bank holding company; or

4 (2) the ability to achieve in any manner the election or
5 appointment of a majority of the directors of a savings
6 bank; or

7 (3) the power to direct or exercise significant
8 influence over the management or policies of the savings bank
9 or savings bank affiliate.

10 "Control" does not include ~~This--definition--shall--not~~
11 ~~apply--to~~ the voting of proxies obtained from depositors if
12 the proxies are voted as directed by a majority of the board
13 of directors of the savings bank or of a committee of
14 directors when the committee's composition and powers may be
15 revoked by a majority vote of the board of directors.

16 (Source: P.A. 86-1213.)

17 (205 ILCS 205/1008) (from Ch. 17, par. 7301-8)
18 Sec. 1008. General corporate powers.

19 (a) A savings bank operating under this Act shall be a
20 body corporate and politic and shall have all of the powers
21 conferred by this Act including, but not limited to, the
22 following powers:

23 (1) To sue and be sued, complain, and defend in its
24 corporate name and to have a common seal, which it may
25 alter or renew at pleasure.

26 (2) To obtain and maintain insurance by a deposit
27 insurance corporation as defined in this Act.

28 (3) To act as a fiscal agent for the United States,
29 the State of Illinois or any department, branch, arm, or
30 agency of the State or any unit of local government or
31 school district in the State, when duly designated for
32 that purpose, and as agent to perform reasonable
33 functions as may be required of it.

1 (4) To become a member of or deal with any
2 corporation or agency of the United States or the State
3 of Illinois, to the extent that the agency assists in
4 furthering or facilitating its purposes or powers and to
5 that end to purchase stock or securities thereof or
6 deposit money therewith, and to comply with any other
7 conditions of membership or credit.

8 (5) To make donations in reasonable amounts for the
9 public welfare or for charitable, scientific, religious,
10 or educational purposes.

11 (6) To adopt and operate reasonable insurance,
12 bonus, profit sharing, and retirement plans for officers
13 and employees and for directors including, but not
14 limited to, advisory, honorary, and emeritus directors,
15 who are not officers or employees.

16 (7) To reject any application for membership; to
17 retire deposit accounts by enforced retirement as
18 provided in this Act and the bylaws; and to limit the
19 issuance of, or payments on, deposit accounts, subject,
20 however, to contractual obligations.

21 (8) To purchase stock in service corporations and
22 to invest in any form of indebtedness of any service
23 corporation as defined in this Act, subject to
24 regulations of the Commissioner.

25 (9) To purchase stock of a corporation whose
26 principal purpose is to operate a safe deposit company or
27 escrow service company.

28 (10) To exercise all the powers necessary to
29 qualify as a trustee or custodian under federal or State
30 law, provided that the authority to accept and execute
31 trusts is subject to the provisions of the Corporate
32 Fiduciary Act and to the supervision of those activities
33 by the Commissioner.

34 (11) (Blank).

1 (12) To establish, maintain, and operate terminals
2 as authorized by the Electronic Fund Transfer Act.

3 (13) To pledge its assets:

4 (A) to enable it to act as agent for the sale
5 of obligations of the United States;

6 (B) to secure deposits;

7 (C) to secure deposits of money whenever
8 required by the National Bankruptcy Act;

9 (D) (blank) ~~to qualify under Section 2-9 of~~
10 ~~the Corporate Fiduciary Act;~~ and

11 (E) to secure trust funds commingled with the
12 savings bank's funds, whether deposited by the
13 savings bank or an affiliate of the savings bank, as
14 required under Section 2-8 of the Corporate
15 Fiduciary Act.

16 (14) To accept for payment at a future date not to
17 exceed one year from the date of acceptance, drafts drawn
18 upon it by its customers; and to issue, advise, or
19 confirm letters of credit authorizing holders thereof to
20 draw drafts upon it or its correspondents.

21 (15) Subject to the regulations of the
22 Commissioner, to own and lease personal property acquired
23 by the savings bank at the request of a prospective
24 lessee and, upon the agreement of that person, to lease
25 the personal property.

26 (16) To establish temporary service booths at any
27 International Fair in this State that is approved by the
28 United States Department of Commerce for the duration of
29 the international fair for the purpose of providing a
30 convenient place for foreign trade customers to exchange
31 their home countries' currency into United States
32 currency or the converse. To provide temporary periodic
33 service to persons residing in a bona fide nursing home,
34 senior citizens' retirement home, or long-term care

1 facility. These powers shall not be construed as
2 establishing a new place or change of location for the
3 savings bank providing the service booth.

4 (17) To indemnify its officers, directors,
5 employees, and agents, as authorized for corporations
6 under Section 8.75 of the Business Corporations Act of
7 1983.

8 (18) To provide data processing services to others
9 on a for-profit basis.

10 (19) To utilize any electronic technology to
11 provide customers with home banking services.

12 (20) Subject to the regulations of the
13 Commissioner, to enter into an agreement to act as a
14 surety.

15 (21) Subject to the regulations of the
16 Commissioner, to issue credit cards, extend credit
17 therewith, and otherwise engage in or participate in
18 credit card operations.

19 (22) To purchase for its own account shares of
20 stock of a bankers' bank, described in Section 13(b)(1)
21 of the Illinois Banking Act, on the same terms and
22 conditions as a bank may purchase such shares. In no
23 event shall the total amount of such stock held by a
24 savings bank in such bankers' bank exceed 10% of its
25 capital and surplus (including undivided profits) and in
26 no event shall a savings bank acquire more than 5% of any
27 class of voting securities of such bankers' bank.

28 (23) With respect to affiliate facilities:

29 (A) to conduct at affiliate facilities any of
30 the following transactions for and on behalf of any
31 affiliated depository institution, if so authorized
32 by the affiliate or affiliates: receiving deposits;
33 renewing deposits; cashing and issuing checks,
34 drafts, money orders, travelers checks, or similar

1 instruments; changing money; receiving payments on
2 existing indebtedness; and conducting ministerial
3 functions with respect to loan applications,
4 servicing loans, and providing loan account
5 information; and

6 (B) to authorize an affiliated depository
7 institution to conduct for and on behalf of it, any
8 of the transactions listed in this subsection at one
9 or more affiliate facilities.

10 A savings bank intending to conduct or to authorize
11 an affiliated depository institution to conduct at an
12 affiliate facility any of the transactions specified in
13 this subsection shall give written notice to the
14 Commissioner at least 30 days before any such transaction
15 is conducted at an affiliate facility. All conduct under
16 this subsection shall be on terms consistent with safe
17 and sound banking practices and applicable law.

18 (24) Subject to Article XLIV of the Illinois
19 Insurance Code, to act as the agent for any fire, life,
20 or other insurance company authorized by the State of
21 Illinois, by soliciting and selling insurance and
22 collecting premiums on policies issued by such company;
23 and may receive for services so rendered such fees or
24 commissions as may be agreed upon between the said
25 savings bank and the insurance company for which it may
26 act as agent; provided, however, that no such savings
27 bank shall in any case assume or guarantee the payment of
28 any premium on insurance policies issued through its
29 agency by its principal; and provided further, that the
30 savings bank shall not guarantee the truth of any
31 statement made by an assured in filing his application
32 for insurance.

33 (25) To become a member of the Federal Home Loan
34 Bank and to have the powers granted to a savings

1 association organized under the Illinois Savings and Loan
2 Act of 1985 or the laws of the United States, subject to
3 regulations of the Commissioner.

4 (26) To offer any product or service that is at the
5 time authorized or permitted to a bank by applicable law,
6 but subject always to the same limitations and
7 restrictions that are applicable to the bank for the
8 product or service by such applicable law and subject to
9 the applicable provisions of the Financial Institutions
10 Insurance Sales Law and rules of the Commissioner.

11 (b) If this Act or the regulations adopted under this
12 Act fail to provide specific guidance in matters of corporate
13 governance, the provisions of the Business Corporation Act of
14 1983 may be used.

15 (Source: P.A. 90-14, eff. 7-1-97; 90-41, eff. 10-1-97;
16 90-270, eff. 7-30-97; 90-301, eff. 8-1-97; 90-655, eff.
17 7-30-98; 90-665, eff. 7-30-98; 91-97, eff. 7-9-99; 91-357,
18 eff. 7-29-99.)

19 (205 ILCS 205/4005) (from Ch. 17, par. 7304-5)
20 Sec. 4005. Voting.

21 (a) Voting at a meeting may be either in person or by
22 proxy executed in writing by the member or stockholder or by
23 his duly authorized attorney-in-fact.

24 (b) In the determination of all questions requiring
25 ascertainment of who is entitled to vote and of the number of
26 outstanding shares, the following rules shall apply:

27 (1) The date of determination shall be the record
28 date for voting provided in this Act.

29 (2) Each person holding one or more withdrawable
30 accounts in a mutual savings bank shall have the vote of
31 one share for each \$100 of the aggregate withdrawal value
32 of the accounts and shall have the vote of one share for
33 any fraction of \$100; however, subject to regulation of

1 the Commissioner, a mutual savings bank may in its
2 by-laws limit the number of votes a person may cast to
3 1,000 votes. A mutual savings bank may adopt a different
4 voting arrangement if the Commissioner finds that the
5 arrangement would not be inequitable to members and if
6 the members approve the arrangement by an affirmative
7 vote of at least two-thirds of the votes entitled to be
8 cast, however, the voting arrangement need not obtain the
9 foregoing member approval if such voting arrangement is
10 otherwise approved as part of a corporate change under
11 this Act.

12 (3) Each holder of capital stock held shall have
13 one vote for each share held.

14 (4) Shares owned by the savings bank shall not be
15 counted or voted.

16 (5) A savings bank authorized to issue stock shall
17 provide in its articles of incorporation that voting
18 rights shall may be vested exclusively in stockholders.

19 (Source: P.A. 91-97, eff. 7-9-99.)

20 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

21 Sec. 4013. Access to books and records; communication
22 with members and shareholders.

23 (a) Every member or shareholder shall have the right to
24 inspect books and records of the savings bank that pertain to
25 his accounts. Otherwise, the right of inspection and
26 examination of the books and records shall be limited as
27 provided in this Act, and no other person shall have access
28 to the books and records nor shall be entitled to a list of
29 the members or shareholders.

30 (b) For the purpose of this Section, the term "financial
31 records" means any original, any copy, or any summary of (1)
32 a document granting signature authority over a deposit or
33 account; (2) a statement, ledger card, or other record on any

1 deposit or account that shows each transaction in or with
2 respect to that account; (3) a check, draft, or money order
3 drawn on a savings bank or issued and payable by a savings
4 bank; or (4) any other item containing information pertaining
5 to any relationship established in the ordinary course of a
6 savings bank's business between a savings bank and its
7 customer, including financial statements or other financial
8 information provided by the member or shareholder.

9 (c) This Section does not prohibit:

10 (1) The preparation examination, handling, or
11 maintenance of any financial records by any officer,
12 employee, or agent of a savings bank having custody of
13 records or examination of records by a certified public
14 accountant engaged by the savings bank to perform an
15 independent audit.

16 (2) The examination of any financial records by, or
17 the furnishing of financial records by a savings bank to,
18 any officer, employee, or agent of the Commissioner of
19 Banks and Real Estate or the Federal Deposit Insurance
20 Corporation for use solely in the exercise of his duties
21 as an officer, employee, or agent.

22 (3) The publication of data furnished from
23 financial records relating to members or holders of
24 capital where the data cannot be identified to any
25 particular member, shareholder, or account.

26 (4) The making of reports or returns required under
27 Chapter 61 of the Internal Revenue Code of 1986.

28 (5) Furnishing information concerning the dishonor
29 of any negotiable instrument permitted to be disclosed
30 under the Uniform Commercial Code.

31 (6) The exchange in the regular course of business
32 of (i) credit information between a savings bank and
33 other savings banks or financial institutions or
34 commercial enterprises, directly or through a consumer

1 reporting agency or (ii) financial records or information
 2 derived from financial records between a savings bank and
 3 other savings banks or financial institutions or
 4 commercial enterprises for the purpose of conducting due
 5 diligence pursuant to a purchase or sale involving the
 6 savings bank or assets or liabilities of the savings
 7 bank.

8 (7) The furnishing of information to the
 9 appropriate law enforcement authorities where the savings
 10 bank reasonably believes it has been the victim of a
 11 crime.

12 (8) The furnishing of information pursuant to the
 13 Uniform Disposition of Unclaimed Property Act.

14 (9) The furnishing of information pursuant to the
 15 Illinois Income Tax Act and the Illinois Estate and
 16 Generation-Skipping Transfer Tax Act.

17 (10) The furnishing of information pursuant to the
 18 federal "Currency and Foreign Transactions Reporting
 19 Act", (Title 31, United States Code, Section 1051 et
 20 seq.).

21 (11) The furnishing of information pursuant to any
 22 other statute which by its terms or by regulations
 23 promulgated thereunder requires the disclosure of
 24 financial records other than by subpoena, summons,
 25 warrant, or court order.

26 (12) The furnishing of information in accordance
 27 with the federal Personal Responsibility and Work
 28 Opportunity Reconciliation Act of 1996. Any savings bank
 29 governed by this Act shall enter into an agreement for
 30 data exchanges with a State agency provided the State
 31 agency pays to the savings bank a reasonable fee not to
 32 exceed its actual cost incurred. A savings bank
 33 providing information in accordance with this item shall
 34 not be liable to any account holder or other person for

1 any disclosure of information to a State agency, for
2 encumbering or surrendering any assets held by the
3 savings bank in response to a lien or order to withhold
4 and deliver issued by a State agency, or for any other
5 action taken pursuant to this item, including individual
6 or mechanical errors, provided the action does not
7 constitute gross negligence or willful misconduct. A
8 savings bank shall have no obligation to hold, encumber,
9 or surrender assets until it has been served with a
10 subpoena, summons, warrant, court or administrative
11 order, lien, or levy.

12 (13) The furnishing of information to law
13 enforcement authorities, the Illinois Department on Aging
14 and its regional administrative and provider agencies,
15 the Department of Human Services Office of Inspector
16 General, or public guardians, if the savings bank
17 suspects that a customer who is an elderly or disabled
18 person has been or may become the victim of financial
19 exploitation. For the purposes of this item (13), the
20 term: (i) "elderly person" means a person who is 60 or
21 more years of age, (ii) "disabled person" means a person
22 who has or reasonably appears to the savings bank to have
23 a physical or mental disability that impairs his or her
24 ability to seek or obtain protection from or prevent
25 financial exploitation, and (iii) "financial
26 exploitation" means tortious or illegal use of the assets
27 or resources of an elderly or disabled person, and
28 includes, without limitation, misappropriation of the
29 elderly or disabled person's assets or resources by undue
30 influence, breach of fiduciary relationship,
31 intimidation, fraud, deception, extortion, or the use of
32 assets or resources in any manner contrary to law. A
33 savings bank or person furnishing information pursuant to
34 this item (13) shall be entitled to the same rights and

1 protections as a person furnishing information under the
2 Elder Abuse and Neglect Act and the Illinois Domestic
3 Violence Act of 1986.

4 (14) The disclosure of financial records or
5 information as necessary to effect, administer, or
6 enforce a transaction requested or authorized by the
7 member or holder of capital, or in connection with:

8 (A) servicing or processing a financial
9 product or service requested or authorized by the
10 member or holder of capital;

11 (B) maintaining or servicing an account of a
12 member or holder of capital with the savings bank;
13 or

14 (C) a proposed or actual securitization or
15 secondary market sale (including sales of servicing
16 rights) related to a transaction of a member or
17 holder of capital.

18 Nothing in this item (14), however, authorizes the
19 sale of the financial records or information of a member
20 or holder of capital without the consent of the member or
21 holder of capital.

22 (15) The exchange in the regular course of business
23 of information between a savings bank and any commonly
24 owned affiliate of the savings bank, subject to the
25 provisions of the Financial Institutions Insurance Sales
26 Law.

27 (16) The disclosure of financial records or
28 information as necessary to protect against or prevent
29 actual or potential fraud, unauthorized transactions,
30 claims, or other liability.

31 (d) A savings bank may not disclose to any person,
32 except to the member or holder of capital or his duly
33 authorized agent, any financial records relating to that
34 member or shareholder of the savings bank unless:

1 (1) the member or shareholder has authorized
2 disclosure to the person; or

3 (2) the financial records are disclosed in response
4 to a lawful subpoena, summons, warrant, or court order
5 that meets the requirements of subsection (e) of this
6 Section.

7 (e) A savings bank shall disclose financial records
8 under subsection (d) of this Section pursuant to a lawful
9 subpoena, summons, warrant, or court order only after the
10 savings bank mails a copy of the subpoena, summons, warrant,
11 or court order to the person establishing the relationship
12 with the savings bank, if living, and otherwise, his personal
13 representative, if known, at his last known address by first
14 class mail, postage prepaid, unless the savings bank is
15 specifically prohibited from notifying the person by order of
16 court.

17 (f) Any officer or employee of a savings bank who
18 knowingly and willfully furnishes financial records in
19 violation of this Section is guilty of a business offense
20 and, upon conviction, shall be fined not more than \$1,000.

21 (g) Any person who knowingly and willfully induces or
22 attempts to induce any officer or employee of a savings bank
23 to disclose financial records in violation of this Section is
24 guilty of a business offense and, upon conviction, shall be
25 fined not more than \$1,000.

26 (h) If any member or shareholder desires to communicate
27 with the other members or shareholders of the savings bank
28 with reference to any question pending or to be presented at
29 an annual or special meeting, the savings bank shall give
30 that person, upon request, a statement of the approximate
31 number of members or shareholders entitled to vote at the
32 meeting and an estimate of the cost of preparing and mailing
33 the communication. The requesting member shall submit the
34 communication to the Commissioner who, upon finding it to be

1 appropriate and truthful, shall direct that it be prepared
2 and mailed to the members upon the requesting member's or
3 shareholder's payment or adequate provision for payment of
4 the expenses of preparation and mailing.

5 (i) A savings bank shall be reimbursed for costs that
6 are necessary and that have been directly incurred in
7 searching for, reproducing, or transporting books, papers,
8 records, or other data of a customer required to be
9 reproduced pursuant to a lawful subpoena, warrant, or court
10 order.

11 (j) Notwithstanding the provisions of this Section, a
12 savings bank may sell or otherwise make use of lists of
13 customers' names and addresses. All other information
14 regarding a customer's account are subject to the disclosure
15 provisions of this Section. At the request of any customer,
16 that customer's name and address shall be deleted from any
17 list that is to be sold or used in any other manner beyond
18 identification of the customer's accounts.

19 (Source: P.A. 90-18, eff. 7-1-97; 91-929, eff. 12-15-00.)

20 (205 ILCS 205/5010 new)

21 Sec. 5010. Final judgment required. Except in an action
22 brought by the Commissioner or the deposit insurance
23 corporation, and any other provision of law notwithstanding,
24 no attachment, injunction, or execution that would have the
25 effect of reducing the capital of any savings bank below
26 applicable minimum regulatory requirements shall be issued
27 against any savings bank or its property in any suit, action,
28 or proceeding in any court before final judgment, from which
29 no appeal can be taken, is rendered.

30 (205 ILCS 205/6013) (from Ch. 17, par. 7306-13)

31 Sec. 6013. Loans to one borrower.

32 (a) Except as provided in subsection (c), the total

1 loans and extensions of credit, both direct and indirect, by
2 a savings bank to any person, other than a municipal
3 corporation for money borrowed, outstanding at one time shall
4 not exceed 20% of the savings bank's total capital plus
5 general loan loss reserves.

6 (b) Except as provided in subsection (c), the total
7 loans and extensions of credit, both direct and indirect, by
8 a savings bank to any person outstanding at one time and at
9 least 100% secured by readily marketable collateral having a
10 market value, as determined by reliable and continuously
11 available price quotations, shall not exceed 10% of the
12 savings bank's total capital plus general loan loss reserves.
13 This limitation shall be separate from and in addition to the
14 limitation contained in subsection (a).

15 (c) If the limit under subsection (a) or (b) on total
16 loans to one borrower is less than \$500,000, a savings bank
17 that meets its minimum capital requirement under this Act may
18 have loan and extensions of credit, both direct and indirect,
19 outstanding to any person at one time not to exceed \$500,000.
20 With the prior written approval of the Commissioner, a
21 savings bank that has capital in excess of 6% of assets may
22 make loans and extensions of credit to one borrower for the
23 development of residential housing properties, located or to
24 be located in this State, not to exceed 30% of the savings
25 bank's total capital plus general loan loss reserves.

26 (d) For purposes of this Section, the term "person"
27 shall be deemed to include an individual, firm, corporation,
28 business trust, partnership, trust, estate, association,
29 joint venture, pool, syndicate, sole proprietorship,
30 unincorporated association, any political subdivision, or any
31 similar entity or organization.

32 (e) For the purposes of this Section any loan or
33 extension of credit granted to one person, the proceeds of
34 which are used for the direct benefit of a second person,

1 shall be deemed a loan or extension of credit to the second
2 person as well as the first person. In addition, a loan or
3 extension of credit to one person shall be deemed a loan or
4 extension of credit to others when a common enterprise exists
5 between the first person and such other persons.

6 (f) For the purposes of this Section, the total
7 liabilities of a firm, partnership, pool, syndicate, or joint
8 venture shall include the liabilities of the members of the
9 entity.

10 (g) For the purposes of this Section, the term "readily
11 marketable collateral" means financial instruments or bullion
12 that are salable under ordinary circumstances with reasonable
13 promptness at a fair market value on an auction or a
14 similarly available daily bid-and-ask price market.
15 "Financial instruments" include stocks, bonds, notes,
16 debentures traded on a national exchange or over the counter,
17 commercial paper, negotiable certificates of deposit,
18 bankers' acceptances, and shares in money market or mutual
19 funds.

20 (h) Each savings bank shall institute adequate
21 procedures to ensure that collateral fully secures the
22 outstanding loan or extension of credit at all times.

23 (i) If collateral values fall below 100% of the
24 outstanding loan or extension of credit to the extent that
25 the loan or extension of credit no longer is in conformance
26 with subsection (b) and exceeds the 20% limitation of
27 subsection (a), the loan must be brought into conformance
28 with this Section within 5 business days except where
29 judicial proceedings or other similar extraordinary
30 occurrences prevent the savings bank from taking action.

31 (j) This Section shall not apply to loans or extensions
32 of credit to the United States of America or its agencies or
33 this State or its agencies or to any loan, investment, or
34 extension of credit made pursuant to Section 6003 of this

1 Act.

2 (k) This Section does not apply to the obligations as
 3 endorser, whether with or without recourse, or as guarantor,
 4 whether conditional or unconditional, of negotiable or
 5 nonnegotiable installment consumer paper of the person
 6 transferring the same if the bank's files or the knowledge of
 7 its officers of the financial condition of each maker of
 8 those obligations is reasonably adequate and if an officer of
 9 the bank, designated for that purpose by the board of
 10 directors of the bank, certifies that the responsibility of
 11 each maker of the obligations has been evaluated and that the
 12 bank is relying primarily upon each maker for the payment of
 13 the obligations. The certification shall be in writing and
 14 shall be retained as part of the records of the bank.

15 (l) The Commissioner may prescribe rules to carry out
 16 the purposes of this Section and to establish limits or
 17 requirements other than those specified in this Section for
 18 particular types of loans and extensions of credit.

19 (Source: P.A. 89-74, eff. 6-30-95; 90-665, eff. 7-30-98.)

20 (205 ILCS 205/8015) (from Ch. 17, par. 7308-15)
 21 Sec. 8015. Change in control.

22 (a) Any person, whether acting directly or indirectly or
 23 through or in concert with one or more persons, shall give
 24 the Commissioner 60 days written notice of intent to acquire
 25 control ~~ef--10%--er--mere~~ of a savings bank or savings bank
 26 affiliate operating under this Act. The Commissioner shall
 27 promulgate rules to implement this provision including
 28 definitions, application, procedures, standards for approval
 29 or disapproval.

30 (b) The Commissioner may examine the books and records
 31 of any person giving notice of intent to acquire control ~~ef~~
 32 ~~10%-er-mere~~ of a savings bank operating under this Act.

33 (c) The Commissioner may approve or disapprove an

1 application for change of control. In either case, the
2 decision must be issued within 30 days of the filing of the
3 initial application or the date of receipt of any additional
4 information requested by the Commissioner that is necessary
5 for his decision to be made. The request for additional
6 information must be made within 20 days of the filing of the
7 initial application.

8 (Source: P.A. 86-1213.)

9 (205 ILCS 205/9019 new)

10 Sec. 9019. Reliance on the Commissioner.

11 (a) The Commissioner may issue an opinion in response to
12 a specific request from a member of the public or the banking
13 or thrift industry or on his own initiative. The opinion may
14 be in the form of an interpretive letter, no-objection
15 letter, or other issuance the Commissioner deems appropriate.

16 (b) If the Commissioner determines that the opinion is
17 useful for the general guidance of the public or savings
18 banks, the Commissioner may disseminate the opinion by
19 newsletter, via an electronic medium such as the internet, in
20 a volume of statutes or related materials published by the
21 Commissioner or others, or by other means reasonably
22 calculated to notify persons affected by the opinion. A
23 published opinion must be redacted to preserve the
24 confidentiality of the requesting party unless the requesting
25 party consents to be identified in the published opinion.

26 (c) No savings bank or other person shall be liable
27 under this Act for any act done or omitted in good faith in
28 conformity with any rule, interpretation, or opinion issued
29 by the Commissioner, notwithstanding that after the act or
30 omission has occurred, the rule, interpretation, or opinion
31 upon which reliance is placed is amended, rescinded, or
32 determined by judicial or other authority to be invalid for
33 any reason.

1 (205 ILCS 205/10001) (from Ch. 17, par. 7310-1)
 2 Sec. 10001. Commissioner's authority to take custody and
 3 appoint a conservator or a receiver.

4 (a) The Commissioner, in his discretion, may take
 5 custody of and appoint a conservator for the property,
 6 liabilities, books, records, business, and assets of every
 7 kind and character of any savings bank for any of the
 8 purposes hereinafter enumerated if it appears from reports
 9 made to the Commissioner or from examination made by or on
 10 behalf of the Commissioner:

11 (1) That the savings bank has failed to produce an
 12 annual audited financial statement, after receiving one
 13 extension from the Commissioner as permitted by this Act.

14 (2) That the savings bank's books and records,
 15 after at least 2 consecutive notices from the
 16 Commissioner spanning at least 2 consecutive calendar
 17 quarters, are in an inaccurate and incomplete condition
 18 to the extent that the Commissioner is unable, through
 19 the normal supervisory process, to determine the
 20 financial condition of the savings bank or the details or
 21 purpose of any transaction that may materially affect the
 22 savings bank's financial condition.

23 (3) That the savings bank has failed or is about to
 24 fail to meet its capital requirement and can meet its
 25 requirements and restore its capital only with assistance
 26 from its federal insurer.

27 (4) That the savings bank is insolvent in that its
 28 assets are less than its obligations to its creditors,
 29 including its depositors.

30 (5) That the savings bank has experienced
 31 substantial dissipation of assets due to any violation of
 32 a law, regulation, or order of the Commissioner or due to
 33 any unsafe or unsound practice.

34 (6) That there is a likelihood that the savings

1 bank will not be able to meet the demands of its
2 depositors or pay its obligations in the normal course of
3 business.

4 (7) That losses have occurred or are likely to
5 occur that have or will deplete all or substantially all
6 of the savings bank's capital and that there is no
7 reasonable prospect for replenishment of the savings
8 bank's capital without federal assistance.

9 (8) That the savings bank or its officers,
10 directors, ~~or~~ employees, or persons in control of the
11 savings bank are violating a law, regulation, or
12 supervisory order of the Commissioner or of another of
13 its financial regulators.

14 (9) That the savings bank is in an unsafe or
15 unsound condition likely to cause insolvency or a
16 substantial dissipation of assets or earnings that will
17 weaken the condition of the savings bank and will
18 prejudice the interests of its depositors.

19 (10) That the directors, officers, trustees, or
20 liquidators have neglected, failed, or refused to take
21 any action that the Commissioner may deem necessary for
22 the protection of the savings bank, including production
23 of an annual audited financial statement after an
24 extension was granted, have continued to maintain the
25 savings bank's books and records in an inaccurate and
26 incomplete condition for 2 consecutive quarters after 2
27 notices from the Commissioner, or have impeded or
28 obstructed an examination.

29 (11) That the deposit accounts of the savings bank
30 are impaired to the extent that the realizable value of
31 its assets is insufficient to pay in full its creditors
32 and holders of its deposit accounts or meet its
33 obligations in the normal course of business; or that its
34 capital stock is impaired.

1 (12) That the savings bank is unable to continue
2 operation.

3 (13) That the business of the savings bank or
4 savings bank in liquidation is being conducted in a
5 fraudulent, illegal, or unsafe or unsound manner.

6 (14) That the officers, employees, trustees, or
7 liquidators have continued to assume duties or perform
8 acts without giving bond as required by the provisions of
9 this Act.

10 (b) If any condition exists that would give the
11 Commissioner authority to take custody of an insured
12 depository institution, the action of the Commissioner may be
13 withheld pending a satisfactory resolution of the condition
14 as suggested by the insurance corporation, provided the
15 savings bank has sufficient liquidity and has adopted and
16 implemented an operating plan considered prudent by the
17 Commissioner.

18 (c) No action or inaction of the Commissioner taken
19 under this Article shall cause the Commissioner to be
20 personally liable for that action or inaction unless the
21 Commissioner's action or inaction is found to be in violation
22 of a criminal statute.

23 (d) The Commissioner shall promulgate rules and
24 regulations to govern the determination of a need for a
25 conservator or receiver, the selection and appointment of a
26 conservator or receiver, and the conduct of a conservatorship
27 or receivership, including allocation of the payment of
28 costs.

29 (e) The proceedings pursuant to this Article shall be
30 the exclusive remedy and, except for the Federal Deposit
31 Insurance Corporation acting pursuant to the Federal Deposit
32 Insurance Act, shall be the only proceedings commenced in any
33 court for the taking of custody, the dissolution, the winding
34 up of the affairs, or the appointment of a receiver for a

1 savings bank.

2 (Source: P.A. 90-301, eff. 8-1-97.)

3 (205 ILCS 205/11003) (from Ch. 17, par. 7311-3)

4 Sec. 11003. Removal and prohibition authority.

5 (a) In addition to other provisions of this Act
6 concerning officers and directors, the Commissioner may
7 remove or suspend from any savings bank operating under this
8 Act any officer, director, employee, or agent of a savings
9 bank, and the Commissioner may prohibit participation in the
10 affairs of any savings bank by any current, former, or
11 prospective officer, director, employee, or agent of a
12 savings bank, if he finds that:

13 (1) The person or persons have directly or
14 indirectly violated any law, regulation, or order
15 including orders, conditions, and agreements between the
16 savings bank and the Commissioner or between the savings
17 bank and its federal regulators.

18 (2) The person or persons have breached their
19 fiduciary or professional responsibilities to the savings
20 bank.

21 (3) The person or persons have similarly behaved
22 towards any other insured depository institution or
23 otherwise regulated entity or that the person or persons
24 are the subject of any final order issued by the federal
25 insurer, the Office of the Comptroller of the Currency,
26 the Federal Reserve Board, a state financial institutions
27 regulator, the Securities and Exchange Commission, or by
28 a state or federal court of law.

29 (b) The Commissioner may serve upon a party a written
30 notice of the Commissioner's intention to remove or suspend
31 the party from office in the savings bank or to prohibit any
32 further participation in any manner by the party in the
33 ~~conduct--of--the~~ affairs of any savings bank financial

1 institution, if the Commissioner finds because of a violation
2 of subsection (a) that:

3 (1) Any savings bank, other insured depository
4 institution, or other regulated entity has or probably
5 will suffer financial loss or other damage.

6 (2) The interests of savings bank's depositors or
7 other insured depository institution's depositors have
8 been or could be prejudiced.

9 (3) The party has received financial gain or other
10 benefit by reason of the violation.

11 (4) The violation or breach involves personal
12 dishonesty on the part of the party or demonstrates
13 willful or continuing disregard by the party for the
14 safety and soundness of the savings bank or other insured
15 depository institution.

16 (Source: P.A. 86-1213.)

17 (205 ILCS 205/11004) (from Ch. 17, par. 7311-4)
18 Sec. 11004. Industrywide prohibition.

19 (a) Except as provided in regulations of the
20 Commissioner, any person who has been removed or suspended
21 from office in a savings bank operating under this Act or
22 prohibited from participating in the ~~conduct-of--the~~ affairs
23 of a savings bank operating under this Act may not, while an
24 order is in effect, continue or begin to hold any office in,
25 or participate in any manner in the ~~conduct-of-the~~ affairs of
26 any savings bank regulated by the State of Illinois, another
27 insured depository institution regulated by the State of
28 Illinois, or any other financial services entity regulated by
29 the State of Illinois.

30 (b) Any violation of subsection (a) by any person who is
31 subject to an order described in that subsection shall be
32 treated as violation of the order.

33 (Source: P.A. 86-1213.)

1 (205 ILCS 205/11008) (from Ch. 17, par. 7311-8)
 2 Sec. 11008. Unauthorized participation by convicted
 3 individual.

4 (a) Except with the prior written consent of the
 5 Commissioner, no person who has been convicted of any
 6 criminal offense involving dishonesty or a breach of trust
 7 may own or control directly or indirectly more than 0.001% of
 8 the capital stock of, receive benefit directly or indirectly
 9 from, or participate directly or indirectly in any manner in
 10 the ~~conduct-of-the~~ affairs of a savings bank.

11 (b) A savings bank may not permit participation by a
 12 person described in subsection (a).

13 (c) Whoever knowingly violates subsection (a) or (b) is
 14 guilty of a Class 3 felony and may be fined not more than
 15 \$10,000 for each day of violation.

16 (Source: P.A. 91-97, eff. 7-9-99.)

17 (205 ILCS 205/11012 rep.)

18 Section 27. The Savings Bank Act is amended by repealing
 19 Section 11012.

20 Section 28. The Illinois Credit Union Act is amended by
 21 changing Section 10 as follows:

22 (205 ILCS 305/10) (from Ch. 17, par. 4411)

23 Sec. 10. Credit union records; member financial records.

24 (1) A credit union shall establish and maintain books,
 25 records, accounting systems and procedures which accurately
 26 reflect its operations and which enable the Department to
 27 readily ascertain the true financial condition of the credit
 28 union and whether it is complying with this Act.

29 (2) A photostatic or photographic reproduction of any
 30 credit union records shall be admissible as evidence of
 31 transactions with the credit union.

1 (3) (a) For the purpose of this Section, the term
 2 "financial records" means any original, any copy, or any
 3 summary of (1) a document granting signature authority
 4 over an account, (2) a statement, ledger card or other
 5 record on any account which shows each transaction in or
 6 with respect to that account, (3) a check, draft or money
 7 order drawn on a financial institution or other entity or
 8 issued and payable by or through a financial institution
 9 or other entity, or (4) any other item containing
 10 information pertaining to any relationship established in
 11 the ordinary course of business between a credit union
 12 and its member, including financial statements or other
 13 financial information provided by the member.

14 (b) This Section does not prohibit:

15 (1) The preparation, examination, handling or
 16 maintenance of any financial records by any officer,
 17 employee or agent of a credit union having custody
 18 of such records, or the examination of such records
 19 by a certified public accountant engaged by the
 20 credit union to perform an independent audit.;

21 (2) The examination of any financial records
 22 by or the furnishing of financial records by a
 23 credit union to any officer, employee or agent of
 24 the Department, the National Credit Union
 25 Administration, Federal Reserve board or any insurer
 26 of share accounts for use solely in the exercise of
 27 his duties as an officer, employee or agent.;

28 (3) The publication of data furnished from
 29 financial records relating to members where the data
 30 cannot be identified to any particular customer of
 31 account.;

32 (4) The making of reports or returns required
 33 under Chapter 61 of the Internal Revenue Code of
 34 1954.;

1 (5) Furnishing information concerning the
2 dishonor of any negotiable instrument permitted to
3 be disclosed under the Uniform Commercial Code.†

4 (6) The exchange in the regular course of
5 business of (i) credit information between a credit
6 union and other credit unions or financial
7 institutions or commercial enterprises, directly or
8 through a consumer reporting agency or (ii)
9 financial records or information derived from
10 financial records between a credit union and other
11 credit unions or financial institutions or
12 commercial enterprises for the purpose of conducting
13 due diligence pursuant to a merger or a purchase or
14 sale of assets or liabilities of the credit union.†

15 (7) The furnishing of information to the
16 appropriate law enforcement authorities where the
17 credit union reasonably believes it has been the
18 victim of a crime.†

19 (8) The furnishing of information pursuant to
20 the Uniform Disposition of Unclaimed Property Act.†

21 (9) The furnishing of information pursuant to
22 the Illinois Income Tax Act and the Illinois Estate
23 and Generation-Skipping Transfer Tax Act.†

24 (10) The furnishing of information pursuant to
25 the federal "Currency and Foreign Transactions
26 Reporting Act", Title 31, United States Code,
27 Section 1051 et sequentia.†-er

28 (11) The furnishing of information pursuant to
29 any other statute which by its terms or by
30 regulations promulgated thereunder requires the
31 disclosure of financial records other than by
32 subpoena, summons, warrant or court order.

33 (12) The furnishing of information in
34 accordance with the federal Personal Responsibility

1 and Work Opportunity Reconciliation Act of 1996. Any
2 credit union governed by this Act shall enter into
3 an agreement for data exchanges with a State agency
4 provided the State agency pays to the credit union a
5 reasonable fee not to exceed its actual cost
6 incurred. A credit union providing information in
7 accordance with this item shall not be liable to any
8 account holder or other person for any disclosure of
9 information to a State agency, for encumbering or
10 surrendering any assets held by the credit union in
11 response to a lien or order to withhold and deliver
12 issued by a State agency, or for any other action
13 taken pursuant to this item, including individual or
14 mechanical errors, provided the action does not
15 constitute gross negligence or willful misconduct. A
16 credit union shall have no obligation to hold,
17 encumber, or surrender assets until it has been
18 served with a subpoena, summons, warrant, court or
19 administrative order, lien, or levy.

20 (13) The furnishing of information to law
21 enforcement authorities, the Illinois Department on
22 Aging and its regional administrative and provider
23 agencies, the Department of Human Services Office of
24 Inspector General, or public guardians, if the
25 credit union suspects that a member who is an
26 elderly or disabled person has been or may become
27 the victim of financial exploitation. For the
28 purposes of this item (13), the term: (i) "elderly
29 person" means a person who is 60 or more years of
30 age, (ii) "disabled person" means a person who has
31 or reasonably appears to the credit union to have a
32 physical or mental disability that impairs his or
33 her ability to seek or obtain protection from or
34 prevent financial exploitation, and (iii) "financial

1 exploitation" means tortious or illegal use of the
 2 assets or resources of an elderly or disabled
 3 person, and includes, without limitation,
 4 misappropriation of the elderly or disabled person's
 5 assets or resources by undue influence, breach of
 6 fiduciary relationship, intimidation, fraud,
 7 deception, extortion, or the use of assets or
 8 resources in any manner contrary to law. A credit
 9 union or person furnishing information pursuant to
 10 this item (13) shall be entitled to the same rights
 11 and protections as a person furnishing information
 12 under the Elder Abuse and Neglect Act and the
 13 Illinois Domestic Violence Act of 1986.

14 (14) The disclosure of financial records or
 15 information as necessary to effect, administer, or
 16 enforce a transaction requested or authorized by the
 17 member, or in connection with:

18 (A) servicing or processing a financial
 19 product or service requested or authorized by
 20 the member;

21 (B) maintaining or servicing a member's
 22 account with the credit union; or

23 (C) a proposed or actual securitization
 24 or secondary market sale (including sales of
 25 servicing rights) related to a transaction of a
 26 member.

27 Nothing in this item (14), however, authorizes the
 28 sale of the financial records or information of a member
 29 without the consent of the member.

30 (15) The disclosure of financial records or
 31 information as necessary to protect against or prevent
 32 actual or potential fraud, unauthorized transactions,
 33 claims, or other liability.

34 (c) Except as otherwise provided by this Act, a credit

1 union may not disclose to any person, except to the member or
2 his duly authorized agent, any financial records relating to
3 that member of the credit union unless:

4 (1) the member has authorized disclosure to the
5 person;

6 (2) the financial records are disclosed in response
7 to a lawful subpoena, summons, warrant or court order
8 that meets the requirements of subparagraph (d) of this
9 Section; or

10 (3) the credit union is attempting to collect an
11 obligation owed to the credit union and the credit union
12 complies with the provisions of Section 2I of the
13 Consumer Fraud and Deceptive Business Practices Act.

14 (d) A credit union shall disclose financial records
15 under subparagraph (c)(2) of this Section pursuant to a
16 lawful subpoena, summons, warrant or court order only after
17 the credit union mails a copy of the subpoena, summons,
18 warrant or court order to the person establishing the
19 relationship with the credit union, if living, and otherwise
20 his personal representative, if known, at his last known
21 address by first class mail, postage prepaid unless the
22 credit union is specifically prohibited from notifying the
23 person by order of court or by applicable State or federal
24 law. In the case of a grand jury subpoena, a credit union
25 shall not mail a copy of a subpoena to any person pursuant to
26 this subsection if the subpoena was issued by a grand jury
27 under the Statewide Grand Jury Act or notifying the person
28 would constitute a violation of the federal Right to
29 Financial Privacy Act of 1978.

30 (e) (1) Any officer or employee of a credit union who
31 knowingly and wilfully furnishes financial records in
32 violation of this Section is guilty of a business offense
33 and upon conviction thereof shall be fined not more than
34 \$1,000.

1 (2) Any person who knowingly and wilfully induces
 2 or attempts to induce any officer or employee of a credit
 3 union to disclose financial records in violation of this
 4 Section is guilty of a business offense and upon
 5 conviction thereof shall be fined not more than \$1,000.

6 (f) A credit union shall be reimbursed for costs which
 7 are reasonably necessary and which have been directly
 8 incurred in searching for, reproducing or transporting books,
 9 papers, records or other data of a member required or
 10 requested to be produced pursuant to a lawful subpoena,
 11 summons, warrant or court order. The Director may determine,
 12 by rule, the rates and conditions under which payment shall
 13 be made. Delivery of requested documents may be delayed
 14 until final reimbursement of all costs is received.

15 (Source: P.A. 90-18, eff. 7-1-97; 91-929, eff. 12-15-00.)

16 Section 30. The Interest Act is amended by changing
 17 Sections 4 and 4a as follows:

18 (815 ILCS 205/4) (from Ch. 17, par. 6404)

19 Sec. 4. General interest rate.

20 (1) In all written contracts it shall be lawful for the
 21 parties to stipulate or agree that 9% per annum, or any less
 22 sum of interest, shall be taken and paid upon every \$100 of
 23 money loaned or in any manner due and owing from any person
 24 to any other person or corporation in this state, and after
 25 that rate for a greater or less sum, or for a longer or
 26 shorter time, except as herein provided.

27 The maximum rate of interest that may lawfully be
 28 contracted for is determined by the law applicable thereto at
 29 the time the contract is made. Any provision in any
 30 contract, whether made before or after July 1, 1969, which
 31 provides for or purports to authorize, contingent upon a
 32 change in the Illinois law after the contract is made, any

1 rate of interest greater than the maximum lawful rate at the
2 time the contract is made, is void.

3 It is lawful for a state bank or a branch of an
4 out-of-state bank, as those terms are defined in Section 2 of
5 the Illinois Banking Act, to receive or to contract to
6 receive and collect interest and charges at any rate or rates
7 agreed upon by the bank or branch and the borrower. It is
8 lawful for a savings bank chartered under the Savings Bank
9 Act or a savings association chartered under the Illinois
10 Savings and Loan Act of 1985 to receive or contract to
11 receive and collect interest and charges at any rate agreed
12 upon by the savings bank or savings association and the
13 borrower.

14 It is lawful to receive or to contract to receive and
15 collect interest and charges as authorized by this Act and as
16 authorized by the Consumer Installment Loan Act and by the
17 "Consumer Finance Act", approved July 10, 1935, as now or
18 hereafter amended. It is lawful to charge, contract for, and
19 receive any rate or amount of interest or compensation with
20 respect to the following transactions:

21 (a) Any loan made to a corporation;

22 (b) Advances of money, repayable on demand, to an
23 amount not less than \$5,000, which are made upon
24 warehouse receipts, bills of lading, certificates of
25 stock, certificates of deposit, bills of exchange, bonds
26 or other negotiable instruments pledged as collateral
27 security for such repayment, if evidenced by a writing;

28 (c) Any credit transaction between a merchandise
29 wholesaler and retailer; any business loan to a business
30 association or copartnership or to a person owning and
31 operating a business as sole proprietor or to any persons
32 owning and operating a business as joint venturers, joint
33 tenants or tenants in common, or to any limited
34 partnership, or to any trustee owning and operating a

1 business or whose beneficiaries own and operate a
2 business, except that any loan which is secured (1) by an
3 assignment of an individual obligor's salary, wages,
4 commissions or other compensation for services, or (2) by
5 his household furniture or other goods used for his
6 personal, family or household purposes shall be deemed
7 not to be a loan within the meaning of this subsection;
8 and provided further that a loan which otherwise
9 qualifies as a business loan within the meaning of this
10 subsection shall not be deemed as not so qualifying
11 because of the inclusion, with other security consisting
12 of business assets of any such obligor, of real estate
13 occupied by an individual obligor solely as his
14 residence. The term "business" shall be deemed to mean a
15 commercial, agricultural or industrial enterprise which
16 is carried on for the purpose of investment or profit,
17 but shall not be deemed to mean the ownership or
18 maintenance of real estate occupied by an individual
19 obligor solely as his residence;

20 (d) Any loan made in accordance with the provisions
21 of Subchapter I of Chapter 13 of Title 12 of the United
22 States Code, which is designated as "Housing Renovation
23 and Modernization";

24 (e) Any mortgage loan insured or upon which a
25 commitment to insure has been issued under the provisions
26 of the National Housing Act, Chapter 13 of Title 12 of
27 the United States Code;

28 (f) Any mortgage loan guaranteed or upon which a
29 commitment to guaranty has been issued under the
30 provisions of the Veterans' Benefits Act, Subchapter II
31 of Chapter 37 of Title 38 of the United States Code;

32 (g) Interest charged by a broker or dealer
33 registered under the Securities Exchange Act of 1934, as
34 amended, or registered under the Illinois Securities Law

1 of 1953, approved July 13, 1953, as now or hereafter
2 amended, on a debit balance in an account for a customer
3 if such debit balance is payable at will without penalty
4 and is secured by securities as defined in Uniform
5 Commercial Code-Investment Securities;

6 (h) Any loan made by a participating bank as part
7 of any loan guarantee program which provides for loans
8 and for the refinancing of such loans to medical
9 students, interns and residents and which are guaranteed
10 by the American Medical Association Education and
11 Research Foundation;

12 (i) Any loan made, guaranteed, or insured in
13 accordance with the provisions of the Housing Act of
14 1949, Subchapter III of Chapter 8A of Title 42 of the
15 United States Code and the Consolidated Farm and Rural
16 Development Act, Subchapters I, II, and III of Chapter 50
17 of Title 7 of the United States Code;

18 (j) Any loan by an employee pension benefit plan,
19 as defined in Section 3 (2) of the Employee Retirement
20 Income Security Act of 1974 (29 U.S.C.A. Sec. 1002), to
21 an individual participating in such plan, provided that
22 such loan satisfies the prohibited transaction exemption
23 requirements of Section 408 (b) (1) (29 U.S.C.A. Sec.
24 1108 (b) (1)) or Section 2003 (a) (26 U.S.C.A. Sec. 4975
25 (d) (1)) of the Employee Retirement Income Security Act
26 of 1974;

27 (k) Written contracts, agreements or bonds for deed
28 providing for installment purchase of real estate;

29 (l) Loans secured by a mortgage on real estate;

30 (m) Loans made by a sole proprietorship,
31 partnership, or corporation to an employee or to a person
32 who has been offered employment by such sole
33 proprietorship, partnership, or corporation made for the
34 sole purpose of transferring an employee or person who

1 has been offered employment to another office maintained
2 and operated by the same sole proprietorship,
3 partnership, or corporation;

4 (n) Loans to or for the benefit of students made by
5 an institution of higher education.

6 (2) Except for loans described in subparagraph (a), (c),
7 (d), (e), (f) or (i) of subsection (1) of this Section, and
8 except to the extent permitted by the applicable statute for
9 loans made pursuant to Section 4a or pursuant to the Consumer
10 Installment Loan Act:

11 (a) Whenever the rate of interest exceeds 8% per
12 annum on any written contract, agreement or bond for deed
13 providing for the installment purchase of residential
14 real estate, or on any loan secured by a mortgage on
15 residential real estate, it shall be unlawful to provide
16 for a prepayment penalty or other charge for prepayment.

17 (b) No agreement, note or other instrument
18 evidencing a loan secured by a mortgage on residential
19 real estate, or written contract, agreement or bond for
20 deed providing for the installment purchase of
21 residential real estate, may provide for any change in
22 the contract rate of interest during the term thereof.
23 However, if the Congress of the United States or any
24 federal agency authorizes any class of lender to enter,
25 within limitations, into mortgage contracts or written
26 contracts, agreements or bonds for deed in which the rate
27 of interest may be changed during the term of the
28 contract, any person, firm, corporation or other entity
29 not otherwise prohibited from entering into mortgage
30 contracts or written contracts, agreements or bonds for
31 deed in Illinois may enter into mortgage contracts or
32 written contracts, agreements or bonds for deed in which
33 the rate of interest may be changed during the term of
34 the contract, within the same limitations.

1 (3) In any contract or loan which is secured by a
2 mortgage, deed of trust, or conveyance in the nature of a
3 mortgage, on residential real estate, the interest which is
4 computed, calculated, charged, or collected pursuant to such
5 contract or loan, or pursuant to any regulation or rule
6 promulgated pursuant to this Act, may not be computed,
7 calculated, charged or collected for any period of time
8 occurring after the date on which the total indebtedness,
9 with the exception of late payment penalties, is paid in
10 full.

11 For purposes of this Section, a prepayment shall mean the
12 payment of the total indebtedness, with the exception of late
13 payment penalties if incurred or charged, on any date before
14 the date specified in the contract or loan agreement on which
15 the total indebtedness shall be paid in full, or before the
16 date on which all payments, if timely made, shall have been
17 made. In the event of a prepayment of the indebtedness which
18 is made on a date after the date on which interest on the
19 indebtedness was last computed, calculated, charged, or
20 collected but before the next date on which interest on the
21 indebtedness was to be calculated, computed, charged, or
22 collected, the lender may calculate, charge and collect
23 interest on the indebtedness for the period which elapsed
24 between the date on which the prepayment is made and the date
25 on which interest on the indebtedness was last computed,
26 calculated, charged or collected at a rate equal to 1/360 of
27 the annual rate for each day which so elapsed, which rate
28 shall be applied to the indebtedness outstanding as of the
29 date of prepayment. The lender shall refund to the borrower
30 any interest charged or collected which exceeds that which
31 the lender may charge or collect pursuant to the preceding
32 sentence. The provisions of this amendatory Act of 1985 shall
33 apply only to contracts or loans entered into on or after the
34 effective date of this amendatory Act, but shall not apply to

1 contracts or loans entered into on or after that date that
 2 are subject to Section 4a of this Act, the Consumer
 3 Installment Loan Act, or the Retail Installment Sales Act, or
 4 that provide for the refund of precomputed interest on
 5 prepayment in the manner provided by such Act.

6 (Source: P.A. 89-208, eff. 9-29-95.)

7 (815 ILCS 205/4a) (from Ch. 17, par. 6410)

8 Sec. 4a. Installment loan rate.

9 (a) On money loaned to or in any manner owing from any
 10 person, whether secured or unsecured, except where the money
 11 loaned or in any manner owing is directly or indirectly for
 12 the purchase price of real estate or an interest therein and
 13 is secured by a lien on or retention of title to that real
 14 estate or interest therein, to an amount not more than
 15 \$25,000 (excluding interest) which is evidenced by a written
 16 instrument providing for the payment thereof in 2 or more
 17 periodic installments over a period of not more than 181
 18 months from the date of the execution of the written
 19 instrument, it is lawful to receive or to contract to receive
 20 and collect either:

21 (i) interest in an amount equivalent to interest
 22 computed at a rate not exceeding 9% per year on the
 23 entire principal amount of the money loaned or in any
 24 manner owing for the period from the date of the making
 25 of the loan or the incurring of the obligation for the
 26 amount owing evidenced by the written instrument until
 27 the date of the maturity of the last installment thereof,
 28 and to add that amount to the principal, except that
 29 there shall be no limit on the rate of interest which may
 30 be received or contracted to be received and collected by
 31 (1) any bank that has its main office or, after May 31,
 32 1997, a branch in this State; (2) a savings and loan
 33 association chartered under the Illinois Savings and Loan

1 Act of 1985, a savings bank chartered under the Savings
2 Bank Act, or a federal savings and loan association
3 established under the laws of the United States and
4 having its main office in this State; or (3) any lender
5 licensed under either the Consumer Finance Act or the
6 Consumer Installment Loan Act, but in any case in which
7 interest is received, contracted for or collected on the
8 basis of this clause (i), the debtor may satisfy in full
9 at any time before maturity the debt evidenced by the
10 written instrument, and in so satisfying must receive a
11 refund credit against the total amount of interest added
12 to the principal computed in the manner provided under
13 Section 15(f)(3) of the Consumer Installment Loan Act for
14 refunds or credits of applicable interest on payment in
15 full of precomputed loans before the final installment
16 due date; or

17 (ii) interest accrued on the principal balance from
18 time to time remaining unpaid, from the date of making of
19 the loan or the incurring of the obligation to the date
20 of the payment of the debt in full, at a rate not
21 exceeding the annual percentage rate equivalent of the
22 rate permitted to be charged under clause (i) above, but
23 in any such case the debtor may, provided that the debtor
24 shall have paid in full all interest and other charges
25 accrued to the date of such prepayment, prepay the
26 principal balance in full or in part at any time, and
27 interest shall, upon any such prepayment, cease to accrue
28 on the principal amount which has been prepaid.

29 (b) Whenever the principal amount of an installment loan
30 is \$300 or more and the repayment period is 6 months or more,
31 a minimum charge of \$15 may be collected instead of interest,
32 but only one minimum charge may be collected from the same
33 person during one year. When the principal amount of the loan
34 (excluding interest) is \$800 or less, the lender or creditor

1 may contract for and receive a service charge not to exceed
2 \$5 in addition to interest; and that service charge may be
3 collected when the loan is made, but only one service charge
4 may be contracted for, received, or collected from the same
5 person during one year.

6 (c) Credit life insurance and credit accident and health
7 insurance, and any charge therefor which is deducted from the
8 loan or paid by the obligor, must comply with Article IX 1/2
9 of the Illinois Insurance Code and all lawful requirements of
10 the Director of Insurance related thereto. When there are 2
11 or more obligors on the loan contract, only one charge for
12 credit life insurance and credit accident and health
13 insurance may be made and only one of the obligors may be
14 required to be insured. Insurance obtained from, by or
15 through the lender or creditor must be in effect when the
16 loan is transacted. The purchase of that insurance from an
17 agent, broker or insurer specified by the lender or creditor
18 may not be a condition precedent to the granting of the loan.

19 (d) The lender or creditor may require the obligor to
20 provide property insurance on security other than household
21 goods, furniture and personal effects. The amount and term of
22 the insurance must be reasonable in relation to the amount
23 and term of the loan contract and the type and value of the
24 security, and the insurance must be procured in accordance
25 with the insurance laws of this State. The purchase of that
26 insurance from an agent, broker or insurer specified by the
27 lender or creditor may not be a condition precedent to the
28 granting of the loan.

29 (e) The lender or creditor may, if the contract
30 provides, collect a delinquency and collection charge on each
31 installment in default for a period of not less than 10 days
32 in an amount not exceeding 5% of the installment on
33 installments in excess of \$200 or \$10 on installments of \$200
34 or less, but only one delinquency and collection charge may

1 be collected on any installment regardless of the period
2 during which it remains in default. In addition, the contract
3 may provide for the payment by the borrower or debtor of
4 attorney's fees incurred by the lender or creditor. The
5 lender or creditor may enforce such a provision to the extent
6 of the reasonable attorney's fees incurred by him in the
7 collection or enforcement of the contract or obligation.
8 Whenever interest is contracted for or received under this
9 Section, no amount in addition to the charges authorized by
10 this Section may be directly or indirectly charged,
11 contracted for or received, except lawful fees paid to a
12 public officer or agency to record, file or release security,
13 and except costs and disbursements including reasonable
14 attorney's fees, incurred in legal proceedings to collect a
15 loan or to realize on a security after default. This Section
16 does not prohibit the receipt of any commission, dividend or
17 other benefit by the creditor or an employee, affiliate or
18 associate of the creditor from the insurance authorized by
19 this Section.

20 (f) When interest is contracted for or received under
21 this Section, the lender must disclose the following items to
22 the obligor in a written statement before the loan is
23 consummated:

- 24 (1) the amount and date of the loan contract;
- 25 (2) the amount of loan credit using the term
26 "amount financed";
- 27 (3) every deduction from the amount financed or
28 payment made by the obligor for insurance and the type of
29 insurance for which each deduction or payment was made;
- 30 (4) every other deduction from the loan or payment
31 made by the obligor in connection with obtaining the
32 loan;
- 33 (5) the date on which the finance charge begins to
34 accrue if different from the date of the transaction;

1 (6) the total amount of the loan charge for the
2 scheduled term of the loan contract with a description of
3 each amount included using the term "finance charge";

4 (7) the finance charge expressed as an annual
5 percentage rate using the term "annual percentage rate".
6 "Annual percentage rate" means the nominal annual
7 percentage rate of finance charge determined in
8 accordance with the actuarial method of computation with
9 an accuracy at least to the nearest 1/4 of 1%; or at the
10 option of the lender by application of the United States
11 rule so that it may be disclosed with an accuracy at
12 least to the nearest 1/4 of 1%;

13 (8) the number, amount and due dates or periods of
14 payments scheduled to repay the loan and the sum of such
15 payments using the term "total of payments";

16 (9) the amount, or method of computing the amount
17 of any default, delinquency or similar charges payable in
18 the event of late payments;

19 (10) the right of the obligor to prepay the loan
20 and the fact that such prepayment will reduce the charge
21 for the loan;

22 (11) a description or identification of the type of
23 any security interest held or to be retained or acquired
24 by the lender in connection with the loan and a clear
25 identification of the property to which the security
26 interest relates. If after-acquired property will be
27 subject to the security interest, or if other or future
28 indebtedness is or may be secured by any such property,
29 this fact shall be clearly set forth in conjunction with
30 the description or identification of the type of security
31 interest held, retained or acquired;

32 (12) a description of any penalty charge that may
33 be imposed by the lender for prepayment of the principal
34 of the obligation with an explanation of the method of

1 computation of such penalty and the conditions under
2 which it may be imposed;

3 (13) unless the contract provides for the accrual
4 and payment of the finance charge on the balance of the
5 amount financed from time to time remaining unpaid, an
6 identification of the method of computing any unearned
7 portion of the finance charge in the event of prepayment
8 of the loan.

9 The terms "finance charge" and "annual percentage rate"
10 shall be printed more conspicuously than other terminology
11 required by this Section.

12 (g) At the time disclosures are made, the lender shall
13 deliver to the obligor a duplicate of the instrument or
14 statement by which the required disclosures are made and on
15 which the lender and obligor are identified and their
16 addresses stated. All of the disclosures shall be made
17 clearly, conspicuously and in meaningful sequence and made
18 together on either:

19 (i) the note or other instrument evidencing the
20 obligation on the same side of the page and above or
21 adjacent to the place for the obligor's signature;
22 however, where a creditor elects to combine disclosures
23 with the contract, security agreement, and evidence of a
24 transaction in a single document, the disclosures
25 required under this Section shall be made on the face of
26 the document, on the reverse side, or on both sides,
27 provided that the amount of the finance charge and the
28 annual percentage rate shall appear on the face of the
29 document, and, if the reverse side is used, the printing
30 on both sides of the document shall be equally clear and
31 conspicuous, both sides shall contain the statement,
32 "NOTICE: See other side for important information", and
33 the place for the customer's signature shall be provided
34 following the full content of the document; or

1 (ii) one side of a separate statement which
2 identifies the transaction.

3 The amount of the finance charge shall be determined as
4 the sum of all charges, payable directly or indirectly by the
5 obligor and imposed directly or indirectly by the lender as
6 an incident to or as a condition to the extension of credit,
7 whether paid or payable by the obligor, any other person on
8 behalf of the obligor, to the lender or to a third party,
9 including any of the following types of charges:

10 (1) Interest, time price differential, and any
11 amount payable under a discount or other system of
12 additional charges.

13 (2) Service, transaction, activity, or carrying
14 charge.

15 (3) Loan fee, points, finder's fee, or similar
16 charge.

17 (4) Fee for an appraisal, investigation, or credit
18 report.

19 (5) Charges or premiums for credit life, accident,
20 health, or loss of income insurance, written in
21 connection with any credit transaction unless (a) the
22 insurance coverage is not required by the lender and this
23 fact is clearly and conspicuously disclosed in writing to
24 the obligor; and (b) any obligor desiring such insurance
25 coverage gives specific dated and separately signed
26 affirmative written indication of such desire after
27 receiving written disclosure to him of the cost of such
28 insurance.

29 (6) Charges or premiums for insurance, written in
30 connection with any credit transaction, against loss of
31 or damage to property or against liability arising out of
32 the ownership or use of property, unless a clear,
33 conspicuous, and specific statement in writing is
34 furnished by the lender to the obligor setting forth the

1 cost of the insurance if obtained from or through the
2 lender and stating that the obligor may choose the person
3 through which the insurance is to be obtained.

4 (7) Premium or other charges for any other
5 guarantee or insurance protecting the lender against the
6 obligor's default or other credit loss.

7 (8) Any charge imposed by a lender upon another
8 lender for purchasing or accepting an obligation of an
9 obligor if the obligor is required to pay any part of
10 that charge in cash, as an addition to the obligation, or
11 as a deduction from the proceeds of the obligation.

12 A late payment, delinquency, default, reinstatement or
13 other such charge is not a finance charge if imposed for
14 actual unanticipated late payment, delinquency, default or
15 other occurrence.

16 (h) Advertising for loans transacted under this Section
17 may not be false, misleading, or deceptive. That advertising,
18 if it states a rate or amount of interest, must state that
19 rate as an annual percentage rate of interest charged. In
20 addition, if charges other than for interest are made in
21 connection with those loans, those charges must be separately
22 stated. No advertising may indicate or imply that the rates
23 or charges for loans are in any way "recommended",
24 "approved", "set" or "established" by the State government or
25 by this Act.

26 (i) A lender or creditor who complies with the federal
27 Truth in Lending Act, amendments thereto, and any regulations
28 issued or which may be issued thereunder, shall be deemed to
29 be in compliance with the provisions of subsections (f), (g)
30 and (h) of this Section.

31 (Source: P.A. 89-208, eff. 9-29-95; 90-437, eff. 1-1-98.)

32 Section 35. The Banking Emergencies Act is amended by
33 changing Sections 1 and 2 as follows:

1 (205 ILCS 610/1) (from Ch. 17, par. 1001)

2 Sec. 1. Definitions. A. As used in this Act, unless the
3 context otherwise requires:

4 (1) "Commissioner" means the officer of this State
5 designated by law to exercise supervision over banks and
6 trust companies, and any other person lawfully exercising
7 such powers.

8 (2) "Bank" includes commercial banks, trust companies
9 and any branch thereof lawfully carrying on the business of
10 banking and, to the extent that the provisions hereof are not
11 inconsistent with and do not infringe upon paramount Federal
12 law, also includes national banks.

13 (3) "Officers" means the person or persons designated by
14 the board of directors, to act for the bank in carrying out
15 the provisions of this Act or, in the absence of any such
16 designation or of the officer or officers so designated, the
17 president or any other officer currently in charge of the
18 bank or of the office or offices in question.

19 (4) "Office" means any place at which a bank transacts
20 its business or conducts operations related to its business.

21 (5) "Emergency" means any condition or occurrence which
22 may interfere physically with the conduct of normal business
23 operations at one or more or all of the offices of a bank, or
24 which poses an imminent or existing threat to the safety or
25 security of persons or property, or both at one or more or
26 all of the offices of a bank.

27 Without limiting the generality of the foregoing, an
28 emergency may arise as a result of any one or more of the
29 following: natural disasters; civil strife; power failures;
30 computer failures; interruption of communication facilities;
31 robbery or attempted robbery.

32 (Source: P.A. 85-204.)

33 (205 ILCS 610/2) (from Ch. 17, par. 1002)

1 Sec. 2. Power of Commissioner. Whenever the Commissioner
2 is notified by any officer of a bank or by any other means
3 becomes aware that an emergency exists, or is impending, in
4 ~~the--county--or--municipality--or--any--part--thereof~~, he may, by
5 proclamation, authorize all banks in the State of Illinois
6 ~~located--in--the--affected--area--or--areas~~ to close any or all of
7 their offices, or if only a bank or banks, or offices
8 thereof, in a particular area or areas of the State of
9 Illinois are affected by the emergency or impending
10 emergency, the Commissioner may authorize only the affected
11 bank, banks, or offices thereof, to close. The office or
12 offices so closed may remain closed until the Commissioner
13 declares, by further proclamation, that the emergency or
14 impending emergency has ended. The Commissioner during an
15 emergency or while an impending emergency exists, which
16 affects, or may affect, a particular bank or banks, or a
17 particular office or offices thereof, but not banks located
18 in the area generally of the said county or municipality, may
19 authorize the particular bank or banks, or office or offices
20 so affected, to close. The office or offices so closed shall
21 remain closed until the Commissioner is notified by a bank
22 officer of the closed bank that the emergency has ended. The
23 Commissioner shall notify, at such time, the officers of the
24 bank that one or more offices, heretofore closed because of
25 the emergency, should reopen and, in either event, for such
26 further time thereafter as may reasonably be required to
27 reopen.

28 (Source: P.A. 77-1782.)

29 Section 40. The Corporate Fiduciary Act is amended by
30 changing Sections 1-8, 3-1, 3-2, 4-3, 4-4, 4-5, 5-3, 5-6, and
31 6-2 and adding Article 4A as follows:

32 (205 ILCS 620/1-8) (from Ch. 17, par. 1551-8)

1 Sec. 1-8. Change of name or location. A corporate
2 fiduciary holding a certificate of authority issued pursuant
3 to this Act must notify and receive written approval from the
4 Commissioner before changing its name or changing the
5 location of its corporate headquarters. A corporate
6 fiduciary which is a State bank chartered by the Commissioner
7 and which accomplishes a change of name in compliance with
8 Section 13 of the Illinois Banking Act or a change of
9 location in compliance with Section 13 ~~17~~ of the Illinois
10 Banking Act, as now or hereafter amended, shall be deemed to
11 have complied with this Section 1-8.

12 (Source: P.A. 90-301, eff. 8-1-97.)

13 (205 ILCS 620/3-1) (from Ch. 17, par. 1553-1)

14 Sec. 3-1. Merger. The merger procedure required of a
15 trust company where there is to be a resulting trust company
16 by consolidation or merger shall be:

17 (1) The board of directors of each party to the merger
18 ~~merging--trust--company~~ shall, by a majority of the entire
19 board, approve a merger agreement which shall contain:

20 (a) The name of each party to the merger ~~merging~~
21 ~~trust--company~~ and its location and a list of each merging
22 party's ~~trust--company's~~ stockholders as of the date of
23 the merger agreement;

24 (b) With respect to the resulting trust company (i)
25 its name and place of business; (ii) the amount of
26 capital, surplus and reserve for operating expenses;
27 (iii) the classes and the number of shares of stock and
28 the par value of each share; (iv) the designation of the
29 continuing trust company and the charter which is to be
30 the charter of the resulting trust company, together with
31 the amendments to the continuing charter and to the
32 continuing by-laws; and (v) a detailed financial
33 statement showing the assets and liabilities after the

1 proposed merger or consolidation;

2 (c) Provisions stating the method, terms and
3 conditions of carrying the merger into effect, including
4 the manner of converting the shares of the merging
5 parties trust-companies into the cash, shares of stock or
6 other securities of any corporation or other property, or
7 any combination of the foregoing, stated in the merger
8 agreement as to be received by the stockholders of each
9 merging party trust-company;

10 (d) A statement that the agreement is subject to
11 approval by the Commissioner and by the stockholders of
12 each party to the merger merging-trust-company and that
13 whether approved or disapproved, the parties to the
14 merger merging----trust---companies will pay the
15 Commissioner's expenses of examination;

16 (e) Provisions governing the manner of disposing of
17 the shares of the resulting trust company not taken by
18 the dissenting stockholders of the parties to the merger
19 merging-trust-companies; and

20 (f) Such other provisions as the Commissioner may
21 reasonably require to enable him to discharge his duties
22 with respect to the merger.

23 (2) After approval by the board of directors of each
24 party to the merger trust-company, the merger agreement shall
25 be submitted to the Commissioner for approval, together with
26 certified copies of the authorizing resolutions of each board
27 of directors showing approval by a majority of the entire
28 board of each party to the merger trust-company.

29 (3) After receipt by the Commissioner of the papers
30 specified in paragraph (2), he shall approve or disapprove
31 the merger agreement. The Commissioner shall not approve the
32 merger agreement unless he shall be of the opinion and shall
33 find:

34 (a) That the resulting trust company meets the

1 requirements of this Act for the formation of a new trust
2 company at the proposed place of business of the
3 resulting trust company;

4 (b) That the same matters exist in respect of the
5 resulting trust company which would have been required
6 under Section 2-6 of this Act for the organization of a
7 new trust company.

8 If the Commissioner disapproves an agreement, he shall
9 state his objection and give an opportunity to the parties to
10 the merger ~~merging--trust--companies~~ to amend the merger
11 agreement to obviate such objections.

12 (Source: P.A. 88-408.)

13 (205 ILCS 620/3-2) (from Ch. 17, par. 1553-2)

14 Sec. 3-2. Change in control.

15 (a) Before a change may occur in the ownership of
16 outstanding stock or membership interests of any trust
17 company whether by sale and purchase, gift, bequest or
18 inheritance, or any other means, which will result in control
19 or a change in the control of the trust company or before a
20 change in the control of a holding company having control of
21 the outstanding stock or membership interests of a trust
22 company whether by sale and purchase, gift, bequest or
23 inheritance, or any other means, which will result in control
24 or a change in control of the trust company or holding
25 company, the Commissioner shall be of the opinion and find:

26 (1) that the general character of its proposed
27 management, after the change in control, is such as to
28 assure reasonable promise of competent, successful, safe
29 and sound operation;

30 (2) that the future earnings prospects, after the
31 proposed change in control, are favorable; and

32 (3) that the prior business affairs of the persons
33 proposing to obtain control or by the proposed management

1 personnel, whether as stockholder, director, member,
2 officer, or customer, were conducted in a safe, sound,
3 and lawful manner.

4 (b) Persons desiring to purchase control of an existing
5 trust company and persons obtaining control by gift, bequest
6 or inheritance, or any other means shall submit to the
7 Commissioner:

8 (1) A statement of financial worth; and

9 (2) Satisfactory evidence that the prior business
10 affairs of the persons and the proposed management
11 personnel, whether as stockholder, director, officer, or
12 customer, were conducted in a safe, sound, and lawful
13 manner.

14 ~~As used in this Section, the term "control" means the~~
15 ~~ownership of such amount of stock or membership interests or~~
16 ~~ability to direct the voting of such stock or membership~~
17 ~~interests as to give power to, directly or indirectly, direct~~
18 ~~or cause the direction of the management or policies of the~~
19 ~~trust company. A change in ownership of stock which would~~
20 ~~result in direct or indirect ownership by a stockholder or~~
21 ~~member, an affiliated group of stockholders or members or a~~
22 ~~holding company of less than 10% of the outstanding stock or~~
23 ~~membership interests shall not be considered a change of~~
24 ~~control. A change in ownership of stock or membership~~
25 ~~interests which would result in direct or indirect ownership~~
26 ~~by a stockholder or member, an affiliated group of~~
27 ~~stockholders or members or a holding company of 20% or such~~
28 ~~lesser amount which would entitle the holder by applying~~
29 ~~cumulative voting to elect one director shall be presumed to~~
30 ~~constitute a change of control for purposes of this Section.~~
31 ~~If there is any doubt as to whether a change in the ownership~~
32 ~~or control of the outstanding stock or membership interests~~
33 ~~is sufficient to result in obtaining control thereof or to~~
34 ~~effect a change in the control thereof, such doubt shall be~~

1 ~~resolved-in-favor-of-reporting-the-facts-to-the-Commissioner.~~
 2 (c) Whenever a bank makes a loan or loans, secured, or
 3 to be secured, by 25% or more of the outstanding stock of a
 4 trust company, the president or other chief executive officer
 5 of the lending bank shall promptly report such fact to the
 6 Commissioner upon obtaining knowledge of such loan or loans,
 7 except that no report need be made in those cases where the
 8 borrower has been the owner of record of the stock for a
 9 period of one year or more, or the stock is that of a
 10 newly-organized trust company prior to its opening.

11 (d) (1) Before a purchase of substantially all the
 12 assets and an assumption of substantially all the liabilities
 13 of a trust company or before a purchase of substantially all
 14 the trust assets and an assumption of substantially all the
 15 trust liabilities of a trust company, the Commissioner shall
 16 be of the opinion and find:

17 (i) that the general character of the acquirer's
 18 proposed management, after the transfer, is such as to
 19 assure reasonable promise of competent, successful, safe,
 20 and sound operation;

21 (ii) that the acquirer's future earnings prospects,
 22 after the proposed transfer, are favorable;

23 (iii) that any prior involvement by the acquirer or
 24 by the proposed management personnel, whether as
 25 stockholder, director, officer, agent, or customer, was
 26 conducted in a safe, sound, and lawful manner;

27 (iv) that customers' interests will not be
 28 jeopardized by the purchase and assumption; and

29 (v) that adequate provision has been made for all
 30 obligations and trusts as required under Section 7-1 of
 31 this Act.

32 (2) Persons desiring to purchase substantially all the
 33 assets and assume substantially all the liabilities of a
 34 trust company or to purchase substantially all the trust

1 assets and assume substantially all the trust liabilities of
2 a trust company shall submit to the Commissioner:

- 3 (i) a statement of financial worth; and
- 4 (ii) satisfactory evidence that the prior business
5 affairs of the persons and the proposed management
6 personnel, whether as stockholder, director, officer, or
7 customer, were conducted in a safe, sound, and lawful
8 manner.

9 ~~As used in this Section, "substantially all" the assets~~
10 ~~or liabilities of the trust assets or trust liabilities of a~~
11 ~~trust company means that portion such that their transfer~~
12 ~~will materially impair the ability of the trust company to~~
13 ~~continue successful, safe, and sound operations or to~~
14 ~~continue as a going concern.~~

15 (e) The reports required by subsections (a), (b), (c),
16 and (d) of this Section 3-2 shall contain the following
17 information to the extent that it is known by the person
18 making the report: (1) the number of shares involved; (2) the
19 names of the sellers (or transferors); (3) the names of the
20 purchasers (or transferees); (4) the names of the beneficial
21 owners if the shares are registered in another name; (5) the
22 purchase price; (6) the total number of shares owned by the
23 sellers (or transferors), the purchasers (or transferees) and
24 the beneficial owners both immediately before and after the
25 transaction; and, (7) in the case of a loan, the name of the
26 borrower, the amount of the loan, and the name of the trust
27 company issuing the stock securing the loan and the number of
28 shares securing the loan. In addition to the foregoing, such
29 reports shall contain such other information as may be
30 available and which is requested by the Commissioner to
31 inform the Commissioner of the effect of the transaction upon
32 the trust company or trust companies whose stock or assets
33 and liabilities are involved.

34 (f) Whenever such a change as described in subsection

1 (a) of this Section 3-2 occurs, each trust company shall
2 report promptly to the Commissioner any changes or
3 replacement of its chief executive officer or of any director
4 occurring in the next 12 month period, including in its
5 report a statement of the past and current business and
6 professional affiliations of the new chief executive officer
7 or directors.

8 (g) The provisions of this Section do not apply when the
9 change in control is the result of organizational
10 restructuring under a holding company.

11 (h) As used in this Section, the term "control" means
12 the ownership of such amount of stock or membership interests
13 or ability to direct the voting of such stock or membership
14 interests as to, directly or indirectly, give power to
15 direct or cause the direction of the management or policies
16 of the trust company. A change in ownership of stock that
17 would result in direct or indirect ownership by a stockholder
18 or member, an affiliated group of stockholders or members, or
19 a holding company of less than 10% of the outstanding stock
20 or membership interests shall not be considered a change
21 of control. A change in ownership of stock or membership
22 interests that would result in direct or indirect ownership
23 by a stockholder or member, an affiliated group of
24 stockholders or members, or a holding company of 20% or such
25 lesser amount which would entitle the holder by applying
26 cumulative voting to elect one director shall be presumed to
27 constitute a change of control for purposes of this Section.
28 If there is any question as to whether a change in the
29 ownership or control of the outstanding stock or membership
30 interests is sufficient to result in obtaining control
31 thereof or to effect a change in the control thereof, the
32 question shall be resolved in favor of reporting the facts to
33 the Commissioner.

34 As used in this Section, "substantially all" the

1 assets or liabilities or the trust assets or trust
 2 liabilities of a trust company means that portion such that
 3 their transfer will materially impair the ability of the
 4 trust company to continue successful, safe, and sound
 5 operations or to continue as a going concern.

6 (Source: P.A. 89-364, eff. 8-18-95; 90-424, eff. 1-1-98.)

7 (205 ILCS 620/4-3) (from Ch. 17, par. 1554-3)

8 Sec. 4-3. Service of process upon Secretary of State.
 9 Any foreign corporation acting in this State in a fiduciary
 10 capacity pursuant to the provisions of Article IV and Article
 11 IVA of this Act shall be deemed to have appointed the
 12 Secretary of State to be its true and lawful attorney upon
 13 whom may be served all legal process in any action or
 14 proceeding against it relating to or growing out of any
 15 trust, estate or matter in respect of which such foreign
 16 corporation has acted or is acting in this state in any such
 17 fiduciary capacity, and the acceptance of or engagement in
 18 this State in any acts in any such fiduciary capacity shall
 19 be signification of its agreement that any such process
 20 against it which is so served, shall be of the same legal
 21 force and validity as though served upon it personally.
 22 Service of such process shall be made by delivering to the
 23 Secretary of State, the corporation department of the office
 24 a copy of such process, together with the fee for service of
 25 process required by the Secretary of State, and such service
 26 shall be sufficient service upon said foreign corporation if
 27 notice of such service and a copy of the process are, within
 28 10 days thereafter, sent by registered mail by the plaintiff
 29 to the defendant at its principal office in such other state
 30 or territory and the plaintiff's affidavit of compliance
 31 herewith is appended to the summons. The court in which the
 32 action is pending may order such continuances as may be
 33 necessary to afford the defendant reasonable opportunity to

1 defend the action. The fee paid by the plaintiff to the
2 Secretary of State at the time of the service may be
3 recovered as taxable costs by the plaintiff if such party
4 prevails in the action. The Secretary of State shall keep a
5 record of all process served upon him under this section and
6 shall record therein the time of such service.

7 (Source: P.A. 85-858.)

8 (205 ILCS 620/4-4) (from Ch. 17, par. 1554-4)

9 Sec. 4-4. Place of business not to be established in
10 State; not deemed transacting business.

11 (a) A foreign corporation, as defined in Section 1-5.08
12 of this Act, shall not establish in this State a place of
13 business, branch office, or agency for the conduct of
14 business as a fiduciary and because it is not permitted to
15 establish in this State a place of business, branch office or
16 agency, a foreign corporation insofar as it acts in a
17 fiduciary capacity in this State pursuant to the provisions
18 of this Act shall not be deemed to be transacting business in
19 this State. The foreign corporation may apply for, and
20 procure from the Commissioner, a license to establish a
21 representative office pursuant to the Foreign Bank
22 Representative Office Act.

23 The provisions of this subsection (a) do not apply to
24 foreign corporations establishing or acquiring and
25 maintaining a place of business in this State to conduct
26 business as a fiduciary in accordance with Article IVA of
27 this Act.

28 (b) Notwithstanding subsection (a) of this Section 4-4,
29 after May 31, 1997, a branch of an out-of-state bank, as
30 defined in Section 2 of the Illinois Banking Act, and a
31 foreign association, as defined in Section 1-10.31 of the
32 Illinois Savings and Loan Act of 1985, may establish an
33 office in this State for the conduct of business as a

1 fiduciary, provided: (i) fiduciary business conducted in this
2 State by a branch of an out-of-state bank is subject to
3 examination by the Commissioner; and (ii) the trust
4 activities of the branch of the out-of-state bank are subject
5 to regulation, including enforcement actions, by the
6 Commissioner to the same extent as Illinois corporate
7 fiduciaries.

8 (Source: P.A. 90-665, eff. 7-30-98; 91-97, eff. 7-9-99.)

9 (205 ILCS 620/4-5) (from Ch. 17, par. 1554-5)

10 Sec. 4-5. Certificate of authority; fees; certificate of
11 reciprocity.

12 (a) Prior to the time any foreign corporation acts in
13 this State as testamentary trustee, trustee appointed by any
14 court, trustee under any written agreement, declaration or
15 instrument of trust, executor, administrator, administrator
16 to collect, guardian or in any other like fiduciary capacity,
17 such foreign corporation shall apply to the Commissioner of
18 Banks and Real Estate for a certificate of authority with
19 reference to the fiduciary capacity or capacities in which
20 such foreign corporation proposes to act in this State, and
21 the Commissioner of Banks and Real Estate shall issue a
22 certificate of authority to such corporation concerning only
23 the fiduciary capacity or such of the fiduciary capacities to
24 which the application pertains and with respect to which he
25 has been furnished satisfactory evidence that such foreign
26 corporation meets the requirements of Section 4-2 of this
27 Act. The certificate of authority shall set forth the
28 fiduciary capacity or capacities, as the case may be, for
29 which the certificate is issued, and shall recite and certify
30 that such foreign corporation is eligible to act in this
31 State in such fiduciary capacity or capacities, as the case
32 may be, pursuant to the provisions of this Act. The
33 certificate of authority shall remain in full force and

1 effect until such time as such foreign corporation ceases to
2 be eligible so to act under the provisions of this Act.

3 (b) Each foreign corporation making application for a
4 certificate of authority shall pay reasonable fees to the
5 Commissioner of Banks and Real Estate as determined by the
6 Commissioner for the services of his office.

7 (c) Any foreign corporation holding a certificate of
8 reciprocity which recites and certifies that such foreign
9 corporation is eligible to act in this State in any such
10 fiduciary capacity pursuant to the provisions of Article IV
11 of this Act or any predecessor Act upon the same subject,
12 issued prior to the effective date of this amendatory Act of
13 1987 may act in this State under such certificate of
14 reciprocity in any such fiduciary capacity without applying
15 for a new certificate of authority. Such certificate of
16 reciprocity shall remain in full force and effect until such
17 time as such foreign corporation ceases to be eligible so to
18 act under the provisions of Article IV of this Act.

19 (d) Any foreign corporation acting in Illinois under a
20 certificate of authority or a certificate of reciprocity
21 shall report changes in its name or address to the
22 Commissioner and shall notify the Commissioner when it is no
23 longer serving as a corporate fiduciary in Illinois.

24 (e) The provisions of this Section shall not apply to a
25 foreign corporation establishing or acquiring and maintaining
26 a place of business in this State to conduct business as a
27 fiduciary in accordance with Article IVA of this Act.

28 (Source: P.A. 89-508, eff. 7-3-96.)

29 (205 ILCS 620/Art. IVA heading new)

30 ARTICLE IVA MULTISTATE TRUST ACTIVITIES

31 (205 ILCS 620/4A-1 new)

32 Sec. 4A-1. Corporate fiduciaries establishing offices in

1 other states.

2 (a) A corporate fiduciary may act as a fiduciary or
3 otherwise engage in fiduciary activities in this or any other
4 state or foreign country, subject to complying with
5 applicable laws of that state or foreign country, at an
6 office established and maintained pursuant to this Act, at a
7 branch, or at any location other than an office or branch. A
8 corporate fiduciary seeking to establish or acquire a branch
9 in another state or foreign country must comply with the
10 notice provisions in Section 1-7 of this Act.

11 (b) A corporate fiduciary may also conduct any
12 activities at any office outside Illinois that are
13 permissible for a trust institution chartered by the state
14 where the office is located, except to the extent those
15 activities are expressly prohibited by the laws of Illinois
16 or by any regulation or order of the Commissioner. However,
17 the Commissioner may waive any such prohibition if he
18 determines, by order or regulation, that the involvement of
19 out-of-state offices of state corporate fiduciaries in
20 particular activities would not threaten the safety or
21 soundness of those state corporate fiduciaries.

22 (205 ILCS 620/4A-5 new)

23 Sec. 4A-5. Foreign corporations establishing places of
24 business to conduct fiduciary activities in Illinois.

25 (a) A foreign corporation may establish or acquire and
26 maintain a place of business for the conduct of business as a
27 fiduciary in this State provided that a corporate fiduciary
28 that has its principal place of business in Illinois is
29 permitted to establish or acquire and maintain a similar
30 place of business that may engage in activities substantially
31 similar to those permitted to foreign corporations under this
32 Act in the state where the foreign corporation has its
33 principal place of business.

1 (b) A foreign corporation desiring to establish or
2 acquire and maintain a place of business to conduct business
3 as a fiduciary in Illinois under this Section shall provide,
4 or cause its home state regulator to provide, written notice
5 of the proposed transaction to the Commissioner on or after
6 the date on which the foreign corporation applies to its home
7 state regulator for approval to establish or acquire and
8 maintain a place of business in Illinois. The filing of the
9 notice shall be preceded or accompanied by a copy of the
10 resolution adopted by the board authorizing the additional
11 place of business and the filing fee required by the
12 Commissioner. The Commissioner may prescribe the form of the
13 notice required under this Section. In the Commissioner's
14 discretion, the application or notice submitted to the
15 foreign corporation's home state regulator may be sufficient
16 notice under this Section.

17 (c) A foreign corporation desiring to establish or
18 acquire and maintain a place of business to conduct business
19 as a fiduciary shall (i) confirm in writing to the
20 Commissioner that for as long as it maintains a place of
21 business in Illinois, it will comply with the laws of this
22 State and (ii) provide satisfactory evidence to the
23 Commissioner of compliance with any applicable requirements
24 of state foreign corporation qualification laws and
25 applicable requirements of its home state regulator for
26 acquiring or establishing and maintaining the office.

27 (d) A foreign corporation submitting a notice to the
28 Commissioner in accordance with subsection (b) may commence
29 fiduciary business at the place of business listed in its
30 notice on the 61st day after the date the Commissioner
31 receives the notice unless the Commissioner specifies an
32 earlier or later date. However, if the foreign corporation
33 is not a depository institution and the Commissioner approves
34 the foreign corporation to conduct a fiduciary business in

1 Illinois subject to specific conditions, the foreign
 2 corporation shall not commence a fiduciary business in
 3 Illinois until it has satisfied those conditions and provided
 4 evidence satisfactory to the Commissioner that it has done
 5 so. The Commissioner may extend the 60-day review period if
 6 additional time or information is needed for approval of the
 7 notice. The Commissioner may deny approval of the notice if
 8 he finds that the foreign corporation lacks sufficient
 9 financial resources to undertake the proposed expansion
 10 without adversely affecting its safety or soundness or that
 11 the place of business is contrary to the public interest.

12 (205 ILCS 620/4A-10 new)

13 Sec. 4A-10. Additional places of business for foreign
 14 corporations. A foreign corporation that establishes or
 15 acquires and maintains a place of business to conduct
 16 business as a fiduciary in Illinois pursuant to Section 4A-5
 17 may establish or acquire additional trust offices or
 18 representative offices in this State to the same extent that
 19 a corporate fiduciary may establish or acquire additional
 20 offices in Illinois under Section 1-7 of this Act.

21 (205 ILCS 620/4A-15 new)

22 Sec. 4A-15. Representative offices. A foreign
 23 corporation not conducting fiduciary activities may establish
 24 a representative office under the Foreign Bank Representative
 25 Office Act. At these offices, the foreign corporation may
 26 market and solicit fiduciary services and provide bank office
 27 and administrative support to the foreign corporation's
 28 fiduciary activities, but it may not engage in fiduciary
 29 activities.

30 (205 ILCS 620/4A-20 new)

31 Sec. 4A-20. Examination of foreign corporations.

1 (a) To the extent consistent with subsection (c) of this
2 Section, the Commissioner may make such examinations of any
3 place of business established or maintained under Section
4 4A-5 by a foreign corporation as the Commissioner may deem
5 necessary to determine whether the place of business is being
6 operated in compliance with the laws of this State and in
7 accordance with safe and sound banking practices. The
8 provisions of Section 5-2 of this Act shall apply to the
9 examinations.

10 (b) The Commissioner may require periodic reports
11 regarding any foreign corporation that has maintained a place
12 of business in this State under Section 4A-5. The required
13 reports shall be provided by the foreign corporation or by
14 the home state regulator. Any reporting requirements
15 prescribed by the Commissioner under this Section shall be
16 consistent with Section 5-9 of this Act.

17 (c) The Commissioner may enter into cooperative,
18 coordinating, and information-sharing agreements with any
19 other bank supervisory agencies or any organization
20 affiliated with or representing one or more bank supervisory
21 agencies with respect to the periodic examination or other
22 supervision of any office in this State of a foreign
23 corporation or any office of a corporate fiduciary in a host
24 state. The Commissioner may accept a report of examination
25 or report of investigation in lieu of the Commissioner
26 conducting an examination or investigation.

27 (d) The Commissioner may enter into contracts with any
28 bank supervisory agency that has concurrent jurisdiction over
29 a corporate fiduciary or foreign corporation maintaining a
30 place of business under Section 4A-5 of this Act to engage
31 the services of that agency's examiners at a reasonable rate
32 of compensation or to provide the services of the
33 Commissioner's examiners to that agency at a reasonable rate
34 of compensation.

1 (e) The Commissioner may enter joint examinations or
2 joint enforcement actions with other bank supervisory
3 agencies having concurrent jurisdiction over any place of
4 business established under Section 4A-5 or any office of a
5 corporate fiduciary in any host state. The Commissioner may
6 at any time take such actions independently if the
7 Commissioner deems such actions to be necessary or
8 appropriate to ensure compliance with the laws of this State.
9 However, in the case of a foreign corporation, the
10 Commissioner shall recognize the exclusive authority of the
11 home state regulator over corporate governance matters and
12 the primary responsibility of the home state regulator over
13 safety and soundness matters.

14 (f) A foreign corporation that maintains one or more
15 offices pursuant to Section 4A-5 may be assessed, and if
16 assessed, shall pay supervisory and examination fees in
17 accordance with Section 5-10 of this Act. The fees may be
18 shared with other bank supervisory agencies or any
19 organization affiliated with or representing one or more bank
20 supervisory agencies in accordance with agreements between
21 such parties and the Commissioner.

22 (205 ILCS 620/4A-25 new)

23 Sec. 4A-25. Notice to Commissioner. A corporate
24 fiduciary that maintains a place of business in this State
25 under Section 4A-5, or the home state regulator of such
26 foreign corporation, shall give at least 30 days prior
27 written notice or, in the case of an emergency transaction,
28 such shorter notice as is consistent with applicable state or
29 federal law, to the Commissioner of:

30 (1) any merger, consolidation, or other transaction
31 that would cause a change in control with respect to the
32 foreign corporation or any bank holding company that
33 controls the corporation;

1 (2) any transfer of all or substantially all of the
 2 trust accounts or trust assets of the foreign corporation
 3 to another person; or

4 (3) the closing or disposition of any place of
 5 business in this State.

6 (205 ILCS 620/5-3) (from Ch. 17, par. 1555-3)
 7 Sec. 5-3. Violations; orders.

8 (a) Whenever it appears to the Commissioner from any
 9 examination, statement of condition or report, that any
 10 corporate fiduciary has committed any violation of law, has
 11 made or published a false statement of condition or is
 12 conducting its business in an unsafe, unsound or unauthorized
 13 manner, he shall, by an order under his signature, direct the
 14 discontinuance of such illegal and unsafe, unsound or
 15 unauthorized practices and that the corporate fiduciary
 16 strictly conform with the requirements of the law, and with
 17 safety and security in its transactions.

18 (b) If a corporate fiduciary refuses or neglects to make
 19 a required statement of condition or any report required
 20 under this Act, or to comply with an order as above stated,
 21 or if it appears to the Commissioner that it is unsafe or
 22 inexpedient for the such corporate fiduciary to continue to
 23 transact business, or that extraordinary withdrawals of money
 24 are jeopardizing the interests of remaining depositors, or
 25 that any corporate fiduciary or officer of a corporate
 26 fiduciary has abused his trust or is guilty of misconduct in
 27 his official position, injurious to the corporate fiduciary,
 28 or that it has suffered a serious loss, he shall enter an
 29 order appropriate to the circumstances, which may include the
 30 appointment of a receiver as hereinafter provided, the taking
 31 of possession of the corporate fiduciary, or the removal of a
 32 director, officer, employee, or agent of the corporate
 33 fiduciary, or he may, represented by the Attorney General,

1 seek an injunction or other appropriate order from the court.

2 (c) No dividends shall be paid by a corporate fiduciary
3 while it continues its business as a corporate fiduciary to
4 an amount greater than its net profits then on hand,
5 deducting first therefrom its losses and bad debts.

6 (Source: P.A. 86-754.)

7 (205 ILCS 620/5-6) (from Ch. 17, par. 1555-6)

8 Sec. 5-6. Removal orders. Whenever, in the opinion of
9 the Commissioner, any director, officer, employee, or agent
10 of a corporate fiduciary or subsidiary or corporate parent of
11 the corporate fiduciary shall have violated any law, rule, or
12 order relating to the corporate fiduciary or subsidiary or
13 corporate parent of the corporate fiduciary, shall have
14 engaged in an unsafe or unsound practice in conducting the
15 business of the corporate fiduciary or subsidiary or
16 corporate parent of the corporate fiduciary, or shall have
17 violated any law or engaged or participated in any unsafe or
18 unsound practice in connection with any financial institution
19 or other business entity such that the character and fitness
20 of the director, officer, employee, or agent does not assure
21 reasonable promise of safe and sound operation of the
22 corporate fiduciary or subsidiary or corporate parent of the
23 corporate fiduciary, the Commissioner may issue an order of
24 removal. If in the opinion of the Commissioner, any former
25 director, officer, employee, or agent of a corporate
26 fiduciary or subsidiary or corporate parent of the corporate
27 fiduciary, prior to the termination of his or her service
28 with the corporate fiduciary or subsidiary or corporate
29 parent of the corporate fiduciary, violated any law, rule, or
30 order relating to the corporate fiduciary or subsidiary or
31 corporate parent of the corporate fiduciary or engaged in an
32 unsafe or unsound practice in conducting the business of the
33 corporate fiduciary or subsidiary or corporate parent of the

1 corporate fiduciary or violated any law or engaged or
2 participated in any unsafe or unsound practice in connection
3 with any financial institution or other business entity such
4 that the character and fitness of the director, officer,
5 employee, or agent would not have assured reasonable promise
6 of safe and sound operation of the corporate fiduciary or
7 subsidiary or corporate parent of the corporate fiduciary,
8 the Commissioner may issue an order prohibiting that person
9 from further service with a corporate fiduciary or subsidiary
10 or corporate parent of the corporate fiduciary as a director,
11 officer, employee, or agent. An order issued pursuant to this
12 Section shall be served upon the director, officer, employee,
13 or agent. A copy of the order shall be sent to each director
14 of the corporate fiduciary affected by personal service,
15 certified mail return receipt requested, or any other method
16 that provides proof of service and receipt. The person
17 affected by the action may request a hearing before the State
18 Banking Board of Illinois, hereafter "the Board", within 10
19 days after receipt of the order of removal or prohibition.
20 The hearing shall be held by the Board according to the same
21 procedures used pursuant to Section 48 of the Illinois
22 Banking Act, and the hearing shall be held within 30 days
23 after the request has been received by the Board. After
24 concluding the hearing, the Board shall make a determination
25 approving, modifying, or disapproving the order of the
26 Commissioner as its final administrative decision. A copy of
27 the order shall be served upon the corporate fiduciary of
28 which the person is a director, officer, employee, or agent,
29 whereupon the person shall cease to be a director, officer,
30 employee, or agent of the corporate fiduciary. Any person
31 who has been removed or prohibited by an order of the
32 Commissioner under this Section or subsection (7) of Section
33 48 of the Illinois Banking Act may not thereafter serve as
34 director, officer, employee, or agent of any State bank or

1 corporate fiduciary, or of any other entity that is subject
 2 to licensure or regulation by the Commissioner or the Office
 3 of Banks and Real Estate unless the Commissioner has granted
 4 prior approval in writing. The Commissioner may institute a
 5 civil action against the director, officer, employee, or
 6 agent subject to an order issued under this Section and
 7 against the corporate fiduciary to enforce compliance with or
 8 to enjoin any violation of the terms of the order.

9 (Source: P.A. 90-301, eff. 8-1-97; 90-665, eff. 7-30-98.)

10 (205 ILCS 620/6-2) (from Ch. 17, par. 1556-2)

11 Sec. 6-2. Control by Commissioner.

12 (a) If the Commissioner with respect to a corporate
 13 fiduciary shall find:

14 (1) Its capital is impaired or it is otherwise in an
 15 unsound condition; or

16 (2) Its business is being conducted in an unlawful
 17 manner, including, without limitation, in violation of any
 18 provisions of this Act or of an order of the Commissioner, or
 19 in a fraudulent or unsafe manner; or

20 (3) It is unable to continue operations; or

21 (4) Its examination has been obstructed or impeded; the
 22 Commissioner may give notice to the board of directors of the
 23 corporate fiduciary of his finding or findings. If the
 24 situation so found by the Commissioner shall not be corrected
 25 to his satisfaction within 60 days after receipt of such
 26 notice, the Commissioner at the termination of said 60 days
 27 may shall take possession and control of the corporate
 28 fiduciary, its assets, and assets held for beneficiaries of
 29 its fiduciary obligations, as in this Act provided for the
 30 purpose of examination, reorganization or liquidation through
 31 receivership.

32 (b) If, in addition to a finding as provided in
 33 subsection (a) of this Section, the Commissioner shall be of

1 the opinion and shall find that an emergency exists which may
 2 result in serious losses to the beneficiaries of fiduciary
 3 relationships with the corporate fiduciary, he may, in his
 4 discretion, without having given the notice provided for in
 5 subsection (a) of this Section, and whether or not
 6 proceedings under subsection (a) of this Section have been
 7 instituted or are then pending, forthwith take possession and
 8 control of the corporate fiduciary and its assets for the
 9 purpose of examination, reorganization or liquidation through
 10 receivership.

11 (Source: P.A. 85-858.)

12 Section 45. The Foreign Banking Office Act is amended by
 13 changing Sections 11 and 12 as follows:

14 (205 ILCS 645/11) (from Ch. 17, par. 2718)

15 Sec. 11. Pledging requirements; discretion of
 16 Commissioner. A foreign banking corporation holding a
 17 certificate of authority issued pursuant to this Act may be
 18 required, when deemed necessary and appropriate in the
 19 opinion of the Commissioner, to keep on deposit with the
 20 Federal Reserve Bank of Chicago or such State bank or
 21 national bank as such foreign banking corporation may
 22 designate and the Commissioner may approve, interest-bearing
 23 stocks and bonds, notes, debentures or other obligations of
 24 the United States or any agency or instrumentality thereof or
 25 guaranteed by the United States, or of this State, or of a
 26 city, county, town, village, school district, or
 27 instrumentality of this State or guaranteed by this State, or
 28 dollar deposits, or obligations of the International Bank for
 29 Reconstruction and Development, or obligations issued by the
 30 Inter-American Development Bank, or obligations of the Asian
 31 Development Bank, or obligations of the African Development
 32 Bank, or obligations of the International Finance

1 Corporation, or such other assets as the Commissioner shall
 2 permit, to an aggregate amount, based upon principal amount
 3 or market value, whichever is lower, in the case of the
 4 above-described securities, and subject to such limitations
 5 as he shall prescribe, such amount as the Commissioner deems
 6 necessary for the protection of depositors or the costs of
 7 taking possession and control ~~of not less than the greater of~~
 8 ~~\$100,000 or 5% of the total liabilities (including contingent~~
 9 ~~liabilities of such banking office, including acceptances,~~
 10 ~~but excluding (i) accrued expenses, (ii) amounts due and~~
 11 ~~other liabilities to other offices, agencies or branches of,~~
 12 ~~and wholly owned (except for a nominal number of directors'~~
 13 ~~shares) subsidiaries of, such foreign banking corporation,~~
 14 ~~and (iii) such contingent liabilities as the Commissioner may~~
 15 ~~exclude.~~ The deposit shall be maintained with the Federal
 16 Reserve Bank of Chicago or any such State bank or national
 17 bank pursuant to a deposit agreement in such form and
 18 containing such conditions and limitations (including a
 19 deposit in the name of the Commissioner in trust for the
 20 depositors of such banking office) as the Commissioner may
 21 prescribe. So long as it continues business in the ordinary
 22 course such banking office shall, however, be permitted to
 23 collect interest on the securities so deposited and from time
 24 to time exchange, examine and compare such securities.

25 (Source: P.A. 89-208, eff. 6-1-97; 90-301, eff. 8-1-97.)

26 (205 ILCS 645/12) (from Ch. 17, par. 2719)

27 Sec. 12. Control by Commissioner.

28 (a) Upon the Commissioner's taking possession, pursuant
 29 to Section 53 of the Illinois Banking Act, of the business
 30 and property in this State of the banking office of a foreign
 31 banking corporation whose deposit liabilities in this State
 32 are not insured by the Federal Deposit Insurance Corporation,
 33 the amounts deposited pursuant to Section 11 shall thereupon

1 become the property of the Commissioner, free and clear of
2 any and all liens and other claims, and shall be held by the
3 Commissioner ~~him~~ in trust for the depositors of such banking
4 office. The Commissioner may, without regard to any
5 priorities, preferences, or adverse claims and without
6 obtaining the approval of any court, reduce such property to
7 cash and, as soon as practicable, utilize the cash to cover
8 initial liquidation costs, if any, and then distribute any
9 excess ~~it~~ to such depositors on a pro rata basis; but no
10 depositor may receive an amount in excess of his account
11 balances. For purposes of this Section, the term "depositor"
12 does not include any other offices or branches of, or
13 wholly-owned (except for a nominal number of directors'
14 shares) subsidiaries of, such foreign banking corporation,
15 but includes those to whom such banking office is indebted by
16 virtue of money or its equivalent received by such banking
17 office (i) for which it has given credit or is obligated to
18 give credit to a time or demand deposit or which is evidenced
19 by a check or draft against a deposit account and certified
20 by such banking office, or (ii) for which it has issued a
21 letter of credit for cash or a traveler's check on which such
22 banking office is primarily liable, or (iii) for which it has
23 issued an outstanding draft (including advice or
24 authorization to charge the banking office's balance at
25 another bank), cashier's check or money order, or other
26 officer's check.

27 (b) Whenever the Commissioner takes possession of the
28 property and business of a foreign bank pursuant to Section
29 53 of the Illinois Banking Act, the Commissioner shall
30 conserve or liquidate the property and business of the
31 foreign bank pursuant to the laws of this State as if the
32 foreign bank were an Illinois bank, with absolute preference
33 and priority given to the creditors of the foreign bank
34 arising out of transactions with, and recorded on the books

1 of, its Illinois state branch or Illinois state agency over
2 the creditors of the foreign bank's offices located outside
3 this State. When the Commissioner has completed the
4 liquidation of the property and business of a foreign bank,
5 the Commissioner shall transfer any remaining assets to the
6 foreign bank in accordance with such orders as the court may
7 issue. However, in case the foreign bank has an office in
8 another state of the United States which is in liquidation
9 and the assets of such office appear to be insufficient to
10 pay in full the creditors of that office, the court shall
11 order the Commissioner to transfer to the liquidator of that
12 office such amount of any such remaining assets as appears to
13 be necessary to cover the insufficiency; if there are 2 or
14 more such offices and the amount of remaining assets is less
15 than the aggregate amount of insufficiencies with respect to
16 the offices, the court shall order the Commissioner to
17 distribute the remaining assets among the liquidators of
18 those offices in such manner as the court finds equitable.

19 (Source: P.A. 84-1308.)

20 Section 50. The Foreign Bank Representative Office Act
21 is amended by changing Sections 4, 6, and 8 as follows:

22 (205 ILCS 650/4) (from Ch. 17, par. 2854)

23 Sec. 4. Application; fees.

24 (a) The application for a license shall contain
25 information and be accompanied by a reasonable fee as
26 determined, by rule, by the Commissioner ~~but-in-no-event~~
27 ~~shall-such-fee-exceed-\$300-per-year.~~

28 (b) The Commissioner shall issue a license to a foreign
29 bank to establish and maintain a representative office if the
30 Commissioner finds:

31 (1) the foreign bank is of good character and sound
32 financial standing;

1 (2) the management of the foreign bank and the proposed
2 management of the representative office are adequate; and

3 (3) the convenience and needs of persons to be served by
4 the proposed representative office will be promoted.

5 (Source: P.A. 85-204.)

6 (205 ILCS 650/6) (from Ch. 17, par. 2856)

7 Sec. 6. Revocation of license. If the Commissioner
8 finds:

9 (a) the licensee or its representative has violated any
10 provision of this Act or other law, rule, or regulation of
11 this State; or

12 (b) any fact or condition exists which, if it had
13 existed at the time of the original application for such
14 license, would have resulted in the Commissioner refusing to
15 issue such license; then the Commissioner, ~~may certify such~~
16 ~~findings to the State Banking Board of Illinois.~~ after
17 granting the licensee or representative a reasonable
18 opportunity to be heard ~~before the Board, the Board,~~ ~~upon a~~
19 ~~majority vote of all its members,~~ may revoke such license.

20 (Source: P.A. 85-204.)

21 (205 ILCS 650/8)

22 Sec. 8. Powers of the Commissioner. The Commissioner
23 shall have under this Act all of the powers granted to him
24 under the Illinois Banking Act, including the authority to
25 impose a reasonable charge to recover the cost of an
26 examination conducted by the Commissioner, to the extent
27 necessary to enable the Commissioner to supervise the
28 representative office of a foreign bank holding a license.

29 (Source: P.A. 90-301, eff. 8-1-97; 90-655, eff. 7-30-98.)

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.